THE RIGHT OF PRIMOGENITURE,

In Succeſſion to the Kingdoms of

ENGLAND, SCOTLAND, and IRELAND:

AS DECLARED

By the Statutes of 25 *E.* 3. *Cap.* 2. *De Proditionibus*, King of *ENGLAND*,

AND

Of *Kenneth* the Third, and *Malcolm Mackenneth* The Second, Kings of *SCOTLAND*.

AS LIKEWISE

Of 10 *H.* 7. made by a Parliament of *Ireland*;

With all Objections anſwered, and clear Probation made,

That to Compaſs or Imagine the Death, Exile, or Diſinheriting of the KING's Eldeſt Son, is High Treaſon.

To which is added,

An Anſwer to all Objections againſt Declaring him a Proteſtant Succeſſor, with Reaſons ſhewing the Fatal Dangers of Neglecting the ſame.

And when the Husbandmen ſaw the Son, they ſaid amongſt themſelves, This is the Heir, come let us kill him, and ſeize on his Inheritance, Matth. 21. 38.

London, Printed for the Author, 1681.

THE PREFACE.

Reader,

THE General Queſtion now in Agitation amongſt the People is, *Who is next Lawful Heir to the Crown?* The Proteſtant ſaith, *The King's Eldeſt Son*; The Papiſt, *a Collateral Heir*; The free Stateſman, *None at all.*

The Two incident Queſtions to the General and Principal, are not rightly ſtated; for they are not as they ought to be made, Whether here is a Lawful Marriage, or a Lawful Filiation: But whether there are Witneſſes to prove the Papal and Epiſcopal Ceremonies of a Marriage and a Filiation, which falſe ſtate the Caſe, and are nothing to the purpoſe. But we cannot come to the reſolution, either of the Principal or Incidents falſe or true, before the Diſcuſſion of Two other Preparatory Queſtions. (1.) By what Law Marriage, Filiation, and Succeſſion ought to be judged Lawful or Unlawful? (2.) By what Judge the ſame ought to be judged. As to which I have already proved at large in the Firſt Book, That the ſame ought to be judged by no other Law than the Moral Law of God; And in the Second, That the ſame ought to be judged by no other Judge, than the King and Parliament. To avoid there-

fore vain Repetitions, I muſt deſire to refer thee to the Firſt and Second Books for thy full Satisfaction; and in this Third, ſhall only from the Two other Premiſſes make this Concluſion, That the King's Eldeſt Son is the next undoubted Lawful Heir, both by the Law of God, and of the Land; wherein though I wave the falſe ſtate of the Queſtion, Whether Ceremony, or no Ceremony? and only inſiſt on the true, Whether Lawful, or Unlawful? yet I deſire thou wilt accept theſe following Reaſons for my Excuſe. (1.) In reference to the Parties contending. (2.) The Laws by which they are to be judged. (3.) The Witneſſes. (4.) The Court by which they are to be judged. As to the Parties contending: (1.) Becauſe as to the Matter of Fact, Whether Ceremony or no Ceremony? I am altogether a Stranger, and know nothing of it; and if I did, yet all Council are Prohibited by the Law to ſpeak to any Matter of Fact. (2.) This hinders not any others from uſing what Probation they ſhall pleaſe of Ceremonies; but all Advantages of the ſame are hereby to them ſaved by Proteſtation. (3.) This ſeeks not to hinder any from uſing what Ceremonies in their Marriages they pleaſe, which ſuit beſt with their Conſciences and Conveniences; only that which is here affirmed, is the Lawfulneſs and Validity of the Marriages of ſuch with whoſe Conſciences or Conveniences ſuch Ceremonies ſuit not, if they are made without them. (4.) No Liberty of Conſcience, no not ſo much as of Opinion, is hereby precluded any man touching the Point in Queſtion, nor is he hinder'd from oppoſing any thing here deliver'd; but if he differ, is invited to do it; ſo it be in Print with Name ſubſcribed, whereby the ſame Liberty may be given to Reply. (5.) Becauſe I write to Proteſtants, and only deſire to give Satisfaction to Conſcience concerning Lawful and Unlawful before God, and not to Superſti-

tion

tion concerning Ceremony and no Ceremony before the Bishop. (6.) It were more for the Safety and Interest of the Protestant Religion, that a Protestant Prince either wanted his Legitimacy by the Papal and Episcopal Ceremonies and Law, or were totally Illegitimated by the same, as King *Edward* the Sixth and Queen *Elizabeth* were, and as they did Claim his Legitimation and Title from the most Righteous, Sacred, and Immutable Moral Law of God, and the Law of the Land; and not from Pontifical Laws. To speak next in reference to the Laws by which Marriage and Filiation ought to be judged, which are the Laws of God, and of the Land agreeing with the same. I wave insisting on Ceremonies, (1.) Because those Laws Civil or Canon, of Emperors, Popes, Bishops, Synods, or Councils of *Trent*, or other Councils which Impose Ceremonies on Marriage, are neither the Laws of God, nor of the Land; but Usurpations: as I have already proved at large, *Lib.* 1. *p.* 43. *Et Lib.* 1. *p.* 31. *Et Lib.* 2. *p.* 182, 183. (2.) To set any value on the Ceremonies of those Laws were to give the Supremacy of the King and Parliament, and the Laws enacted by them concerning Marriage, Filiation, and Succession to Popes and Bishops, and their Canons; and thereby to give them power to Depose Kings, and give or sell the Successions of Kingdoms to whom they please. (3.) It is cleerly and unanswerably proved in the following Discourse, That the Marriage now under consideration, was a Lawful, Holy, and Indissoluble Marriage by the Moral Law of God, as declared both in Nature and Scripture. To bring a Ceremonial Law therefore where the Moral is so clear, were to bring a Candle to give light to the Sun. Then next as to the Laws of the Land, The Marriage, Filiation, and Succession, are as clear by them as by the Law of God; As (1.) by this present Statute, 2. *E.* 3.

cap.

cap. 2. of Treasons, as is proved at large, and all Objections answered in the following Discourse. (2.) By the *Jus Coronæ*, which is the Common Law of the Land, whereby the Law of Succession to the Crown differs from that of Succession to Subjects, proved likewise as before. (3.) By the Law of Necessity, which is not only the Law of this, but of all Lands, and not only of Lands, but Seas: The time of this Marriage being alleadged to be in a time of War, when the Ceremonies of the Common Prayer-Book and it self were abolish'd and prohibited by the Predominant Power of the Sword, and the place beyond Sea, and in Exile. (4.) By Presumptions, which as to Marriage, Filiation, and Legitimation, are the Law of the Land, *Præsumptiones Juris & de Jure*, for to speak truly, the same are impossible to be proved by Witnesses, or any other way than by Presumption, as is implyed by the Common Rule, *Filiatio non potest probari*, and likewise more fully shewn, *Lib.* 1. *p.* 104, 105. Now the Ground and usual Presumptions of Marriage and Legitimation by the Laws of the Land, and of the very Canon and Civil Laws themselves, Are (1.) Fame and Reputation of Marriage. (2.) Cohabitation. (3.) No lawful Impediment why the Parties should not Marry. (4.) Chastity and Children. (5.) Length of time, and no Judicial Questioning, and Sentence to the contrary while alive. (7.) Promise of Marriage. (8.) Acknowledgment by the Father of the Children, either by word or writing, or by giving them Aliment and Education, as Children. As to the First, Fame and Reputation, which are *Voces & opinio Vulgi*, are an usual Presumption of Marriage. As to the Second, The Cannon Law it self *Jus Pontificium præsumit ex diuturna Cohabitatione filium esse Legitimum*, Craig. Feud. 270. Cohabitation for any time is so high a Presumption of Marriage,

riage, as it Legitimates the Son. And amongſt the Old *Romans*, one of their chief ways of Lawful Marriage, without Ceremony of Prieſt or Temple was *Uſus*, that is Cohabitation and Conjugal Society for the ſpace of a year, and this was reputed ſo conſiderable a time, as it made a Marriage by Preſcription. As to the Third, which is where there is no Lawful Impediment, nor the Parties are prohibited by the Law of God to Marry, this makes a preſumption of Marriage; becauſe it was no Sin for them by the Law of God to Marry. As to the Fourth cauſe of Preſumption, which is Chaſtity and Children, where all the Circumſtances concur of Lawful Marriage as Cohabitation, no Lawful Impediment, Chaſtity of the Lady, Children, and acknowledgment by the Father of the Children to be his; theſe are not only the ſtrongeſt preſumptions which can be made of a Lawful Marriage; but are of themſelves, as is fully proved in the following Diſcourſe without any Ceremony, a Marriage Lawful, Holy, and Indiſſoluble. As to the Fifth cauſe of preſumption, which is no Judicial Queſtioning and Sentence againſt the Marriage in the ſpace of Thirty years, in which time all Witneſſes may be Dead, and Writings loſt or burnt; the ſame is ſo high, as by the Laws of the Land, and of all Nations no proof ought to be admitted to the contrary, nor no queſtioning now to be permitted of the ſame; becauſe it is beyond the time of Limitation of Actions, and the peace and ſecurity of all Families and Kingdoms muſt be deſtroyed, ſhould Witneſſes be required Thirty years after of all ſuch Marriages as have not been Judicially queſtion'd and ſentenced in all that time. As to the Sixth cauſe of preſumption, which is the Death of either Party without being Judicially queſtion'd or ſentenced while alive; This by the Law of God and of the Land, is ſo high a preſumption for the Parents, and

ſo

so necessary justice for the Children; That no Probation ought to be admitted to the contrary, nor ought or can the Legitimation of the Child be question'd after the Death of either Parent; yea, though the Marriage of the Parents were Unlawful, as if a man Marry his own Sister (which is a far more Unlawful Marriage, than to Marry without a Papal or Episcopal Ceremony) and have Issue by her, if she die before a Judicial hearing, and sentence pass'd against her; her Children are Inheritable, and their Legitimation can never be question'd; for she that is Deceased cannot be Summon'd before any Humane Tribunal: And if Sentence should be there pass'd against her, she is condemn'd without Hearing; and therefore that the Children ought to be Legitimate and Inheritable, hath been resolved by the Parliament it self, as may appear *Bro. Peraignement* 5. *Bro. Bastardy* 23. 44 24 *H.* 8. 39 *E.* 3. 32. And it is for the same reason very clear, That if Queen *Katherine* the Wife of *H.* 8. had died before Judicial Sentence pass'd against her, the Legitimation of his Daughter by her, who was afterwards, Queen *Mary* could never have been question'd; and should the Legitimation of the Royal Lines of *England*, *Scotland*, and *Ireland*, or any other Kingdom in the World, be permitted to be question'd after the Death of one or both of the Parents, It is impossible but all certainty and security of the Successions to them must be utterly destroyed. As to the Seventh cause of presumption, which is presumption of a Promise of Marriage, to shew which, all the forementioned circumstances concur, and though the Ecclesiasticks of *Scotland* keep the people under sufficient servility of their Ceremonies of Marriage; yet even thereby the Laws of the Land doth promise of Marriage without any Proclamation of Banns or other Ceremony, both Endow the Mother,

and

and Legitimate the Children, as appears *Craig. Feud.* 269. 270. As to the laſt Cauſe of Preſumption, which is Filiation, not only the Civil Law, but the Law of God in the Scripture, Legitimates every Son, and makes him Heir to the Father who begot him, either of a Primogenial or Filial Portion, except of Inheritance intail'd to a former Wife, as was that of *Abraham* to *Sarah*; and whether this Probation of Filiation is made by the Son or Father, as in the Civil Law is ſaid, *Filium alicujus ſe eſſe probans, videtur probare ſe eſſe Legitimum*, § *Et ib. ad Marg. de Adopt.* who proves himſelf a Son to any, proves himſelf Legitimate. And by the ſame Law, ſuch as are proved Children are Legitimated, though there were no Ceremonies of Marriage, *Authen. Collation.* 6. *Novella* 174. *Tit.* 3. *quibus modis Natur. cap. primo Siquis* 3530. And the Scripture is Poſitive in the point, *Rom.* 8. 17. *If Children, then Heirs. Et* Gal. 4. 7. *If a Son, then an Heir.* (5.) To return again to other Laws of the Land, beſides thoſe of Preſumptions. It is not neceſſary to prove a Lawful Marriage by proving Ceremonies: But all Marriage is declared Lawful, whether with or without Ceremonies by the Doctrine of the Church of *England*, and the Law of the Land, which is not Prohibited by the Law of God; as appears by the 32 Art. of the 39 Articles, *Roger*'s Articles, *p.* 185. 187, 188. as ſhewn more at large in the Diſcourſe following, and likewiſe in the Statute 32 *H.* 8. *cap.* 38. of Precontracts, wherein there is this Clauſe, *And that no Reſervation or Prohibition (God's Law except) ſhall Trouble or Impeach any Marriage without the Levitical Degrees*: Whereby it is clear, that this Marriage being without the Levitical Degrees, and not Prohibited by the Law of God, ought not (by the expreſs words of the Act of Parliament) to be troubled or impeach'd by any Humane Law whatſoever,

ſoever, Eccleſiaſtical or Temporal. Which ſaid Act of Parliament, except as to matter of Pre-contracts, ſtands unrepealed to this Day, and of full force. And the Reaſons of the ſaid Act are expreſſed in the Preamble of the ſame, to be becauſe the Uſurped Power of the Biſhop of *Rome*, hath always intangled and troubled the meer Jurisdiction and Regal Power of this Realm of *England*, and alſo unquieted much the Subjects of the ſame by his Uſurped Power in them; and by making that Unlawful, which by God's Word is Lawful, both in Marriages and other things. (6.) They whom no Law of the Land makes Illegitimate, are Legitimate by the Law of the Land; But no Law of the Land either in *England* or *Scotland*, makes the Children either of Papiſt or Proteſtant born of Marriages not prohibited by the Law of God Illegitimate. Therefore all Children born of Marriages not prohibited by the Law of God, are Legitimate by the Law of the Land; for though ſome Penal Laws have been by Pontifical pretences procured, which have preſumed too far to prohibit contrary to the Divine Ordinance, Marriages and Meats not prohibited by the Law of God; yet none but the Pope and Council of *Trent*, who in their *Luciferian* Pride pretend to power above God's Law, ever tranſgreſs'd ſo far in theſe Kingdoms, as by ſuch penal Laws to null or make void ſuch Marriages, or to Illegitimate their Children, or though they impoſed penalties on the Parents to impoſe any on the Children; as may appear by the Statutes 3 *Jac.* 5. for *England*, prohibiting Popiſh Recuſants to Marry otherwiſe than by a Miniſter lawfully authorized in ſome open Church or Chappel, according to the Orders of the Church of *England*. And the Act *Car.* 1. *Par.* 2. *Seſſ.* 2. *Act* 8. *fol.* 88. for *Scotland*, prohibiting any to Marry in another Kingdom, without the Banns firſt proclaimed in *Scotland*. And

that

that the Omiſſion of Ceremonies contrary to a penal Law, neither Nulls the Marriage, nor Illegitimates the Iſſue; *Vid.* proved before, *Lib.* 1. *p.* 110, 111. (7.) *Fruſtra probatur quod probatum non relevat.* It were time miſpent to prove Ceremonies, which when they are proved, prove nothing to the Matters in queſtion, which are, a lawful Lady Companion, as intended by this Statute, and an eldeſt Son by her of the Blood of King *Charles* the Second, the rightful preſent Poſſeſſor of the Three Kingdoms, and of the Blood; and of his two ſpecial Predeceſſors King *Edward* the Third of *England*, and King *Fergusius* of *Scotland*; as to which Probation of the Ceremonies of a Marriage, proves nothing of the Truth or Lawfulneſs of the Marriage; for many Ladies have been Married with all the Ceremonies the Prieſt could lay on them; yet have their Marriages been utterly unlawful, and prohibited by the Law of God; nor do they prove the Truth or Lawfulneſs of the Lineal Blood, derived from the Poſſeſſors, or Predeceſſors. As for Example, The Kings of *Sparta* were to be of no other Blood but of the race of *Hercules*; theſe were Married with all the Ceremonies accuſtomed in that Kingdom; yet did not thoſe Ceremonies preſerve the Chaſtity of the Queen from being ſo over-familiar with *Alcibiades*, her Husband's ingrateful Gueſt, and whom he had hoſpitably entertain'd, when fled from his own Country of *Athens*; but he having got her with Child, boaſted when he was gone from thence, that he had left Heirs of his Blood to the Kingdom of *Lacedæmon*. So *Henry* of *Spain*, *Anno Dom.* 1459. having Married his Queen with all the Ceremonies accuſtomed in that Kingdom, but being unable himſelf, perſwaded her to be got with Child by *Bertrand* of *Guttua*; *Joan* thus gotten, is proclaimed Heir, but refuſed by the people. *Bertrand* is made Earl of *Ledeſma*, and Duke of *Alburquerk*. *Sp. Hiſt.*

Canutus the *Dane*, Married here in *England*, *Algive* who was Barren; ſhe to oblige the love of her Husband, feigned her ſelf with Child, and packt one that was Suppoſitious on her Husband. King *Canutus* was very joyful of his ſuppoſed Son, and called his Name *Sweno*, and after gave him the Kingdom of *Norway*.

Philip the Second of *Spain*, was Ceremoniouſly Married to Queen *Mary*; for whoſe being with Child as was ſuppoſed, a Day of Publick Thankſgiving was kept, and the Bells rang with Joy through all *England*; but as is ſaid, King *Philip* was Jealous of the like Iſſue with *Canutus*; what had the proof of the Ceremonies of Marriage been to the purpoſe to prove Adulterous Children to be of the race of *Hercules*, or *Henry*; or ſuch as had been Suppoſitious of the *Daniſh* or *Spaniſh* Races. (8.) It were a Diſhonour to the Holy Proteſtant Religion, and the Profeſſors thereof, to be able to Eſtabliſh the Lawfulneſs and Validity of their Marriages, on no more Sacred Principles than Ceremonies of ſo unclean an Original, as Popes, Common Proſtitutes, Magicians, Aruſpices, Aſtrologers, Southſayers, Prieſts of *Priapus* and *Venus*, Pagan Gods and Goddeſſes, and *Dæmons* themſelves, as is already proved, *Lib.* 1. *p.* 43, 44. 51, 52. Then as to Witneſſes, It were an unneceſſary Tempting of God to caſt what is not the cauſe of a ſingle perſon, but of all the Proteſtants in the Three Kingdoms, on the hazard of ſuch Witneſſes as the Probation of Ceremonies Thirty years ſince, and in a Foreign Catholick Country will require; for it is certain, the Biſhops and Magiſtrates of that Countrey are Papiſts, and therefore no equal Witneſſes may be had thence, but ſuch as may think it is Meritorious to overthrow the Proteſtants right or wrong; and the ſame Danger is of Witneſſes at home, obnoxious to as great Temptations of Papiſts here, whoſe Religion is

not

not to keep Faith with Hereticks, as they call Proteſtants; whereby they may as is commonly practiſed, be corrupted with Money; either in a counterfeit manner to offer their Teſtimonies, and when they have Sworn to Recant and Reprobate themſelves, whereby the Truth ſhall be betrayed; or a greater Number of falſe Witneſſes be Suborned to Swear againſt the Truth, then may be got to Swear for it, whereby the Truth ſhall be deſtroyed, or ſuch Judges may be, as will hear no Witneſſes but ſuch as are right for the turn, whereby the Truth will be ſuppreſſed; of which Popiſh practices too much hath appeared freſh before our Eyes in the Examination of the late Horrid Plot. Therefore no Prudence to give them opportunity to do the like, or worſe, by joyning Iſſue with them on the Impertinent point of Ceremonies of Marriage, wherein only they are able to corrupt Witneſſes. But it is more ſecure to ſtand on the points of Subſtance of Marriage according to the Law of God, which are theſe, *viz.* Cohabitation, Conjugal Society, Chaſtity, Children, and acknowledgment of them by the Father to be his, of which God's Providence hath provided ſo many Witneſſes as will be in vain for them to Suborn or Corrupt falſe Witneſſes to the contrary. Beſides, if Witneſſes may be had yet alive after Thirty years time; yet they may Die or be Poiſon'd, or otherwiſe made away when known, before they come to Hearing, or ſo terrified that they will not dare to teſtifie the Truth; why then ſhall all be put in danger by Ceremony, when Subſtance, Places all in Security, and it were an injuſt thing Three Kingdoms ſhould be hazarded on the Lives of two or three Witneſſes. To ſpeak at laſt in reference to the Judges and Court, by whom this Marriage ought to be judged, which ought to be only by the King and Parliament, both as to the Fact, and the Law; for as to

both

both the ſame as alleadged being made beyond Sea in a Foreign Catholick Country, not under the Juriſdiction of the King and Parliament, nor where his Writ runneth: The Archbiſhop of *Canterbury* cannot be ſent unto to certifie, becauſe it was made Beyond-ſea, the Foreign Catholick Biſhop cannot be ſent unto to certifie, becauſe he is out of the Juriſdiction. And beſides, by Acts of Parliament all Foreign Certificates, and all other Foreign Acts of Juriſdiction from the Biſhop of *Rome*, or any other Foreign Biſhop ought not to be admitted here; beſides no Foreign Witneſs can either be Summon'd to appear here, or to be examin'd there. So as to the Fact of Ceremonies, were they never ſo many at the Marriage, they are impoſſible to be brought to an equal Tryal or Probation here, and the Ceremony that 'twas in a Church conſecrated by a Biſhop; for as *Coke* ſays, no Houſe can be a Church, without ſuch Conſecration, which is impoſſible to be Sworn by any Witneſs; For none but God can make place or time Holy, and not a Biſhop; there remains therefore nothing which ought or can, as to the Fact of Marriage be proved here, but the Subſtance of Marriage, which is Cohabitation, Conjugal Society, Chaſtity and Children, which are Notorious, and need no Foreign Witneſſes. Then as to to the Law of the Ceremonies, the Proteſtant Ceremonies of Marriage are by the Law in a Catholick Country Hereſie, and forbidden. The Catholick Ceremonies are forbidden here. Theſe Ceremonies therefore in a Foreign Marriage, can neither be judged here by the Law of the Catholick Country, becauſe it concerns Inheritance which lyes in *England*; nor by the Law of *England*, becauſe the Fact was done in a Foreign County; it ought therefore only to be judged by the Moral Law of God, which judgeth according to Subſtance, and not Ceremonies, and is the Univerſal Law of all Nations

tions and Countries. (2.) It were impertinent to prove Ceremonies before a Parliament, becauſe the ſame being a Court of Equity, ought to judge according to Truſt and Intention of Marriage; though the Witneſs of Ceremonies are Dead, and Writings loſt or burnt, whereby any verbal Promiſe, or Ceremonial form of Words cannot be proved. (3.) God forbid the Repreſentative of the People in Parliament, whom they have intruſted with all they have in Matters of ſuch infinite weight, ſhould be ſo Ludicrous as to caſt away the ſafety of the King's Perſon, to Extinguiſh his Lineal Blood, to Deſtroy the Religion, Liberty, Propriety, and Lives of all his Proteſtant Subjects in the Three Kingdoms on ſuch Toys, as that there are no Witneſſes to be got to prove Ceremonies of *Verba de Præſenti*, or, With my Body I thee worſhip, or to Swear that the Ring was Gold and not Braſs, or that it was put on the fourth Finger, and not on the fifth; or not on the Tumb, but on the Finger. (4.) It is impertinent to prove Ceremonies in a Court of Equity, eſpecially in the Supreme Court of Equity, which a Parliament is, who ought to judge Right, *Secundum æquum & Bonum*, without any regard to Ceremonies, as to make Eſtates good without Livery of Seiſin, Attornment, Inrolement, Fine, Common Recovery, or the like; ſo likewiſe ought they to judge without any regard of the Ceremonies and Formalities of Pleadings, according to the Truth and Merits of the Cauſe; yea, they ought not only to judge without; but contrary to all Ceremonies and Formalities, if they find them Eſtopples to Truth, and Bars to Equity; yea, contrary to the Law it ſelf, if they find it *Summum Jus*. (5.) In this very point of Legitimation, the High Court of Parliament ought to judge according to Truth and Equity, though contrary to all Eccleſiaſtical Laws, and contrary to all Epiſcopal Certificates; as appears by *Coke* expreſly,

expreſly, *Part* 4. *fol.* 36. where he ſaith, *The Parliament may Baſtard a Child that is by Law Legitimate, viz.* Begotten by an Adulterer, the Husband being within the four Sees, as *Rot. Parl.* 5. *Et* 6 *E.* 6. in the Marqueſs of *Wincheſter*'s Caſe; *and may Legitimate one that is by Law Illegitimate, and born before Marriage.* (that is, without the Ceremonies of Marriage.) And this may be done Abſolutely, or with Exception; of which later way, take one Example for many. *John* of *Gaunt* Duke of *Lancaſter*, had by *Katharine Swinford*, who was not Married with the Ceremony of a Prieſt and a Temple four Children, (Slander'd in thoſe Popiſh Times with the Name of Illegitimate) *viz. Henry, John, Thomas*, and *Joan*; and becauſe they were Born at *Beaufort* in *France*, they were vulgarly called *Henry de Beaufort*, &c. After at a Parliament holden 20 *R.* 2. The King by Act of Parliament in the form of a Charter, doth Legitimate theſe three Sons, and *Joan* the Daughter, with an Exception, which is, *Excepta dignitate Regali*; which ſhews that the King and Parliament may when they pleaſe Legitimate according to the Moral Law of God, and not only without, but contrary to Ceremonies. And though they ſhall not, yet is the Legitimation by the Law of God above that of all Humane Laws. And though a Right thereby *Dormit aliquando*, yet *Moritur nunquam*, as appears in *Henry* the Seventh, who long after derived his Title from *John de Beaufort* Duke of *Somerſet*, the ſecond Son of *John* of *Gaunt* by *Katharine Swinford*, who was only Married according to the Moral Law of God, and without the Ceremonies of a Prieſt and a Temple, notwithſtanding the Exception in the Act *R.* 2. (*Excepta dignitate Regali*) for what that Act denied him, a later Act gave him, and before he Married with the Lady *Elizabeth*, the Daughter of *Edward* the Fourth, and Heir of the

Houſe

Houſe of *York*, the Crown was by Act of Parliament intailed to *Henry* the Seventh, and the Heirs of his Body, and indeed all Settlements of the Crown, by Act of Parliament, both in the Houſe of *York* and *Lancaſter* are in themſelves Legitimations, without any naming the word where there hath been any Scruples concerning the ſame; and though there have been none, are the ſureſt and moſt undiſputable Titles of Succeſſors, and of the greateſt Advantage to the Poſſeſſors; which is viſible in the Examples of the Kings of *England* and *Scotland*, the greateſt part of whom have made uſe of Acts of Parliament, though their Titles have been unqueſtionable. Upon the whole, it ſeems not poſſible for any Title of Succeſſion to be more clear both in Divinity, Law, and Equity, than the preſent, except by Act of Parliament, wherein the Perſon is particularly named; which is only wanting to make known to others what the ſame is already in it ſelf: And to declare by a particular Act what is already declared by this General Act of *E.* 3. And all other the General Laws of God and the Land before mention'd.

WILL. LAWRENCE.

THE CONTENTS OF The Third BOOK.

CAP. I.

THe words of the Statute 25 E. 3. cap. 2. De Proditionibus, *as in the Original* French. Page 1.

The Statute of Kenneth 3. *and* Malcolm Mackenneth 2. *concerning the Succeſſion to the Crown of* Scotland, *as related by* Buchanan. p. 2.

Objections againſt theſe Statutes (made chiefly by Buchanan *himſelf) and the Policy of them in making the Crown Hereditary to the Eldeſt Son anſwered.* ibid.

Objections againſt the being of the King's Eldeſt Son within the Statute of 25 E. 3. cap. 2. De Proditionibus. p. 20.

Obj. 1. *That the Lady Mother was not a Queen.* ibid.

Anſw. 1. *The Statute is falſe Tranſlated by the Lawyers, and the Scripture falſe Tranſlated by the Biſhops in the word Queen.* ibid.

Anſw. 2. *Proved that the Lady Mother was* Madam ſa Compaign, *according to the Moral Law of God, which is all and more than is required to be proved by the Statute.* ibid.

Obj. 2. *No Marriage according to the Maſs-Book in the time of* E. 3. *nor by the Modern Common Prayer-Book, or Book of Canons.* p. 23.

Anſw. 1. *No Marriage by any Book required by the Statute, but only a Lady Companion according to the Moral Law of God.* p. 24.

Anſw. 2. *Marriage by the Common Prayer-Book, not Neceſſary in a time of War, when both Books of Common Prayer and of Canons were Prohibited and Abliſhed by the Power of the Sword.* ibid.

Anſw. 3. *The Legitimation of Children by the Law of God and of the Land, ought not to be queſtion'd after the Death of either Parent, where not Judicially queſtion'd and ſentenced in their life-time,* Vid. Præface &. p. 25.

Anſw. 4. *Not Neceſſary for a King who is Supreme Ordinary to Marry by the Common Prayer Book or Book of Canons.* p. 26.

Anſw. 5. *A King who is Supreme Ordinary may diſpence with his own Canons, and with any thing that is only* Malum Prohibitum *in his own Marriage, but not with what is* Malum in ſe, *by the Moral Law of God.* p. 28.

Obj. 3. *The Lady Mother was not HIS Companion, which is the Article of Propriety required by the Statute.* p. 32.

Anſw. *She was HIS, and he had the ſole Propriety according to the Law of God and the Land.* p. 33.

Obj. 4. *There was no Marriage according to the Law of God.* p. 34.

Anſw. 1. *Certain Preparatory Conſiderations are laid down (before the contrary is proved to this Negative) By what Law and what Judges ſhall be judged what is the Law of God, by which is after proved here was a Marriage according to the Law of God.* ib.

Anſw. 2. *Of the damnable Effects have followed by the Popiſh Prohibitions, and Nulling of all Marriage not made by a Prieſt in a Temple.* p. 35.

What is not Marriage by the Moral Law of God. p. 39.

What is not Matrimony by the Moral Law of God. ibid.

Anſw. 3. *The Statute requires neither a King* De Jure, *nor a Lady Companion* De Jure, *nor a Son* De Jure, *but only* De Facto; *yet are they all here, both* De Jure *and* De Facto, p. 40.

Dangerous

The Contents.

Dangerous to leave the Succeſſion of a Kingdom on ſo incertain a word as Lawful; *yet here both the King, the Lady Companion, and the Son are all Lawful.* ibid.

Anſw. 4. *A Lawful Succeſſor may be of an unlawful Marriage.* p. 41.

Obj. 5. *The Lady Mother was not a Wife according to the Scripture.* p. 42.

Anſw. 1. *The Objection is falſe, and it is after proved ſhe was a Wife according to the Scripture.* ibid.

Anſw. 2. *The Statute requires no Wife according to Scripture, but only a lawful Companion, yet was ſhe both a Wife and a lawful Wife according to Scripture; as will hereafter be proved.* p. 43.

Anſw. 3. *The Biſhops have falſly Tranſlated the Scripture in all words relating to Marriage.* ibid.

Of certain Differences between a Wife of the Biſhop's making: and a Wife of God's making. p. 46.

Obj. 6. *There is no Biſhop's Certificate to teſtifie the Marriage and Filiation.* p. 48.

Anſw. *The Statute requires no Certificate of either.* ibid.

The Forms of Biſhops Certificates. p. 49.

Their Original came from the Prieſts of Priapus. p. 50.

Of the Damnable Miſchiefs inſue from Tryal of Marriage and Filiation by Biſhops Certificates. ibid.

The Certificates of Biſhops inconſiſtent with the Right of Primogeniture. p. 58.

Of the General Cuſtom of Nations, of Succeſſions to Kingdoms by Primogeniture, and of the Miſchiefs and Civil Wars commonly follow the diſinheriting of the Eldeſt Son. p. 62.

What is Marriage, and what Matrimony de Facto. p. 66.

What is Marriage De Jure *according to the Law of God, and of the Nations.* p. 67.

Of the three Lawful Marriages amongſt the Romans, (1) Uſu. (2) Confarreatione. (3) Coemptione. p. 68.

Of

The Contents.

Of the three Lawful Marriages amongſt the Hebrews, (1) Copulatione. (2) Coemptione. (3) Inſtrumentis. ibid.

That Carnal knowledge, Chaſtity, and Childbirth between a Man and a Woman not prohibited by the Moral Law to Marry makes a Marriage Lawful, Holy, and Indiſſoluble without Banns, Licence, Prieſt, Temple or any other Ceremony whatſoever. p. 71.

That the Marriage Coemptione, Confarreatione, *or* Inſtrumentis, *was not intended by Chriſt, but only the Marriage* Copulatione. p. 86.

An Epithalamium *on the Marriage of Nature intended by Chriſt without a Prieſt or Temple.* p. 88.

Obj. 7. *The King's Eldeſt Son is not the Heir intended by the Statute.* p. 90.

Anſw. *Proved he is the Heir both in the Letter and Intention of the Statute.* ibid.

That to compaſs the Exile or Diſinheriting of the King's Eldeſt Son is High Treaſon. p. 94.

Obj. 8. *By the Cuſtom of Nations, the Succeſſion goes not to the Eldeſt Son, born when the Father is only a Prince, but to a younger Son, born when he is a King.* ibid.

Anſw. *This Statute was made to prevent incertainty of this and other Cuſtoms, and prevent all Cavils and Contentions about Succeſſion, by aſcertaining the ſame to the Eldeſt Son.* p. 95.

Obj. 9. *The King's Eldeſt Son is not yet declared Prince of* Wales, *or of the* Scots. ibid.

Anſw. *The Statute requires no ſuch thing.* p. 97.

Obj. 10. *Illegitimacy deprives of the benefit of the Statute.* ibid.

Anſw. *This Statute declares every Eldeſt Son of a King Legitimate, and Heir to the Crown.* ibid.

The Eldeſt Son of a King of Great Britain *is Legitimate by his Birth-right,* per Jus Coronæ. ibid.

Examples

Examples of the same Jus Coronæ *in other Nations.* p. 100.
Examples of the same Jus Coronæ *in the Eldest Sons and Daughters of the Kings of* England *and* Scotland, *who have thereby succeeded as Heirs to their Fathers Kingdoms on Marriages, according to the Moral Law of God, without the Ceremonies of a Priest, or a Temple.* p. 102, 103.
That 'tis High Treason for any Subject to slander the King's Eldest Son with Illegitimacy. p. 111.
A Comparison of the Popish slanders of Illegitimacy against Queen Elizabeth, *and the King's Eldest Son.* p. 112.
A Comparison of the Popish slanders of Illegitimacy against King Edward *the Sixth, Queen* Elizabeth, *the King's Eldest Son, and the Sons and Daughters of the whole Protestant Clergy.* p. 114.
Of the insolent absurdity of Popish Laws, Disinheriting the Lawful Sons of Kings according to the Law of God, and inheriting the Bastards of Popes by the Law of the Devil. p. 118.

CAP. II.

Whether necessary in the present juncture of Affairs for the King and Parliament to declare a Protestant Successor to the Three Kingdoms. p. 121.
Objections against it Answer'd.
Obj. 1. *Declaring a Protestant Successor by the King and Parliament, makes a Kingdom Elective and not Hereditary.* ibid.
Obj. 2. *Acts of Precedent Parliaments cannot bind Subsequent from repeal.* p. 122.
Obj. 3. *Acts of Parliament cannot bind the Power of the Sword from cutting off those Acts by Conquest.* p. 123.
Obj. 4. *Declaring a Successor by Act of Parliament incites him to be disobedient and rebellious.* ibid.
Obj. 5. *The* Ottoman *Emperors never declare a Successor.* p. 124.

Obj.

The Contents.

Obj. 6. *Queen* Elizabeth *refused to Declare a Successor.* p. 127.

Reasons for declaring a Protestant Successor, by the King and Parliament, with the Great Dangers insue the neglect. p. 132.

1. *Danger to the Conscience of the Prince.* ibid.
2. *Danger by the incertainty of the Laws of Succession of the Crown.* p. 133.
3. *Danger of the Arbitrary disposing of the Crown by* Rome *or* Canterbury. p. 134.
4. *Danger of the Predominancy of Papal and Episcopal Laws of Marriage, Filiation, and Succession above the Moral Law of God, and the Laws of the Land.* ibid.
5. *Danger to the King's Person, his Lineal Heirs and House.* p. 135.
6. *Danger of Lineal and Collateral Heirs to destroy one another.* ibid.
7. *Danger if the King's Eldest Son should happen to die before his Father, leaving his Heir and younger Children in Minority.* ibid.
8. *Danger of a Successor without Assent of the People.* p. 137.
9. *Danger of a Papist Successor.* p. 138.

A Papist Successor more dangerous to Papists themselves, than a Protestant Successor. ibid.

A Papist Successor or Male utterly Destructive to Protestants, and a Female doubly Destructive. p. 160.

10. *Danger in regard of Foreign Princes.* p. 182.
11. *Danger of exposing Succession to Counterfeit Wills and Testaments.* p. 190.
12. *Danger of incouraging Usurpers.* p. 191.
13. *Danger in doubtful Titles of* Interregnums. p. 192.
14. *Danger of Cantonizing the Kingdoms.* ibid.
15. *Danger of Exposing the Succession of the Kingdoms to Sale.* p. 193.
16. *Danger of Exposing the Succession of the Kingdoms to Conquest.* p. 197.

Lib. III. Chap. I.

The words of the *Statute* 25 *E.* 3. *cap.* 2. *De Proditionibus*, as in the Original *French.*

Auxint pur ceo que divers Opinions ont eſtre eins ceax heurs quel Caſe doit eſtre dit Treaſon et en quel nemy ; le Roy a le requeſt des Seigniors et Commons ad fait declariſment que enſuiſt ; ceſtaſſavoire quant home fait compaſſer ou imaginer la Mort noſtre Seignior le Roy, Madame ſa compaigne ou de lour fits Eigne et Heir.

The words as Tranſlated by *Pulton* and *Coke* into *Engliſh.*

WHereas divers Opinions have been before this time in what caſe Treaſon ſhall be ſaid, and in what not ; the King, at the requeſt of the Lords and Commons, hath made a Declaration in the manner as hereafter followeth ; That is to ſay, When a man doth Compaſs or Imagine the Death of our Lord the

King, of our Lady his Queen, or of their Eldeſt Son and Heir.

The Statutes of *Kenneth* the Third, and *Malcolm Mackenneth* the Second, as related by *Buchanan*, *Lib.* 6. *Rer. Scot.* p. 191, & 196.

Adjectæ ſunt & Aliæ leges, ut quemadmodum Regi maximus natu filius in regnum Succederit, ita filio ante Patrem defuncto nepos avo ſubrogaretur.

Engliſhed.

There were other Lawes alſo added, That as the Eldeſt Son of the King ſhould ſucceed to him in his Kingdom; So if ſuch Son dyed before the Father, the Nephew ſhould ſucceed in his ſtead to his Grandfather.

Another Law of *Scotland* mention'd by *Skene*, *Reg. Majeſt. Lib.* 2. *cap.* 33. *De Nepote ex Primogenito filio.*

Nepos ex filio Primogenito mortuo jure repreſentationis ſuccedit Avo ſuo, & filium poſtnatum Avi id eſt Avunculum ſuum excludit.

Engliſhed.

The Eldeſt Son being dead before the Father, the Nephew by the Eldeſt Son ſhall in right of Repreſentation Succeed to his Grandfather; and exclude any Younger Son of his Grandfather, that is to ſay, his Uncle.

This

This Law of *Scotland* was taken out of *Glanvil*, *Lib.* 7. *c.* 3. which ſhews it is the unqueſtionable Law of *England*, as well as of *Scotland*; and likewiſe out of the Civil Law, *L.* 3. *C. de ſuis & legit. Hæred. l. Poſthumorum.* 13 *H. de Injuſt. Teſtamento, & c.* 33. *ex l.* 1. § 6. *H. de Hæred.* *Skene* ſaith further, That of this Queſtion between the Son of the Eldeſt Son, and the Uncle, *Franciſcus Vinius* Treats at large, *Lib.* 3. *Deciſionum Deciſ.* 501. and he alleadgeth, *Alciat Conſ.* 101. *& Bartol. in l. poſt fratres C.* 1. *de legit. hæred. Bald. Salyc. & Doctores in l. ſi viva Mater C. de Bon. Pater.*

The Statute made 10 *H.* 7. in a Parliament of *Ireland*, called *Poyning*'s *Law*: The words of which are theſe,

It is Enacted, That all Statutes late made within the Realm of *England*, concerning or belonging to the Common or Publick Weal of the ſame, from henceforth be deemed Good and Effectual in the Law, and ever that be accepted, uſed and executed within this Land of *Ireland*, in all Points, and at all times requiſite according to the Tenor and Effect of the ſame.

Coke ſaith, 4 *Part* 351. That *Hil.* 10. *Jac. Regis*, it was reſolved by the Two Chief Juſtices and Chief Baron, that this word *(late)* in the beginning of this Act, had the ſenſe of *(before)* ſo that this Act extended to *Magna Charta*, and to all Acts of Parliament made in *England* before this Act of 10 *H.* 7. And by the ſame Reaſon extends to the Statute of 25 *E.* 3. *cap.* 2. *De Proditionibus*, on which this Diſcourſe is founded; from whence will be after proved theſe Concluſions.

Concluſion 1.

This being granted, That if the Eldeſt Son had happen'd to

to Die in the Life of his Father, the Eldeſt Son of the Prince who died, ſhould have Succeeded *Jure Repreſentationis* of his own Father, as Heir Lineal to his Grandfather, and excluded the Grandfather's Younger Son, who is his Uncle, *à fortiori*, muſt it be granted, that if both Grandfather and Father die, the Eldeſt Son who is the Grandchild Surviving, he ought to exclude his Uncle; for he now comes in *Jure proprio* which is a greater Right than *Jure repreſentationis*; and if the leſs Right exclude the Uncle, much more muſt the greater.

Concluſion 2.

When the Right of the Crown ſhall actual deſcend from the King in Poſſeſſion, on the Eldeſt Son in Poſſeſſion, who is the next Lineal Heir of his Blood, then is the Son Actually King both *De Facto*, and *De Jure*, as was his Father who died in Poſſeſſion of the Kingdoms. And therefore all the forementioned Acts of Parliament, and Common Laws of *England*, *Scotland*, and *Ireland*, and the Imperial Laws with them unanimouſly declare, It will be not only then High Treaſon to Compaſs the Death, Exile or Diſinheriting of the King's Eldeſt Son, but whatſoever elſe is High Treaſon againſt a King, will be the ſame againſt him.

Objections chiefly by Buchanan *againſt theſe Statutes, and the Policy of them, making Kingdoms Hereditary to the Eldeſt Sons, Anſwered.*

Object. Who is beſt able to defend a Kingdom, ſhould have it.

Object. 1. *Salus Populi*, is above all Statutes, and the Power of Kings and Parliaments themſelves, and above all Acts of Parliament: Statutes therefore which Repeal the Ancient Fundamental Laws which were in *Great Britain*, of Election by Parliament, and in *Ireland* by the Cuſtom of *Taniſtry* of Succeſſion of the Brother before the Son; ſuch Statutes ought themſelves to be repealed, and not to repeal thoſe which are better; and it being moſt neceſſary *pro ſalute Populi*, that he who is beſt able to defend a Kingdom againſt Enemies Foreign and Native, and hath learnt the ſame by Age and Experience, ſhould ſucceed; which the Brother being more able and fit to do than the Son, ought, according to thoſe Ancient and Neceſſary Cuſtomes,

ſtomes, to ſucceed before the Son; which Cuſtome as to *Scotland* is recited by *Buchanan*, *Mos majorum qui è propinquis Regum defunctorum non proximos ſed, maximè idoneos, eligerent, modo à Fergusio primo Scotorum Rege eſſent oriundi.* The Cuſtom of *Scotland* was, That the Parliament choſe out of the Kindred of the King deceaſed, not the next, but the fitteſt, ſo as they were ſuch as were deſcendents from *Fergusius* the firſt King of the *Scots*; and on this Cuſtome *Kenneth* the Third, who was the Brother of King *Duffus*, was by Election of the Parliament of *Scotland* preferred before *Malcolumbus* the Son of *Duffus*, though a Youth of great hopes; which *Kenneth* began his Reign *Anno Dom.* 970, and proved a moſt Valiant and Wiſe Prince, and repell'd a Mighty Invaſion of the *Danes*, whom he overthrew in a Battel with a great Slaughter of them: but the ſame *Kenneth* afterwards inflamed with Ambition, Covetouſneſs, and Cruelty, ſecretly poyſoned *Malcolumbus* the then Prince of *Scotland*, being the ſaid Son of his Brother *Duffus* deceaſed, and with great diſſimulation counterfeiting even Tears and great Grief for him, Convened a Parliament at *Scone*, whom partly by Terror, and partly by Deceit, he got to Abrogate the Law of Succeſſion of Brothers before Sons, which had made him King, and been the Sanctuary of Publique Safety, and Enacted a Law of Succeſſion for his own private and not the Publique Intereſt, clean contrary, *viz.* That the Kingdom ſhould be from that time Hereditary in this manner; That his own Eldeſt Son ſhould be Prince of *Scotland*. That when any King dyed, his Eldeſt Son ſhould next ſucceed to the Crown; and if the Eldeſt dyed living his Father, the Nephew ſhould ſucceed inſtead of his Son who dyed: And other Conſtitutions, as appears, *Buchanan rer. Scotl.* 190, 191. Who ſaith further, *Ita Rex per ſcelus poſteris uti putabat regno ſtabilito, animum tamen ſuum confirmare non potuit*, &c. The King (ſaith he) having by ſo great a Wickedneſs eſtabliſhed his Kingdom, as he thought, to his Poſterity, he could not Eſtabliſh his Mind; for although he courted all ſorts of Men with the higheſt ſhew of Love and Courteſie, and ſo managed the Affairs of the Kingdom, that there was nothing wanting which ſhewed him not a good King; Yet his Mind perpetually diſquieted with the conſcience of his wicked fact, ſuffered him not to have any ſolid or ſincere joy, but the thoughts of his foul Crime ruſhing into his memory, vexed him

Kenneth making the Kingdome of *Scotland* Hereditary, tormented in Conſcience.

by Day and by Night, moſt horrible Dreams diſturbed his reſt; at length, whether truly (as ſome affirm) or whether his troubled thoughts made him ſo fancy what oftentimes happens to Guilty perſons, a voice came from Heaven, by which he ſeemed in his ſleep to be warned, *Doeſt thou think the Murder of* Milcolumbus, *an Innocent Perſon, committed by thee moſt wickedly in Secret, is hid from me? or that I will any longer ſuffer it to paſs without puniſhment? For already there are Plots laid by Treaſon, which thou ſhalt not eſcape, to take away thy Life; neither ſhalt thou (as thou thinkeſt) leave thy Kingdom Stable or Secure, but full of Tumults and Tempeſts to thy Poſterity.* With which fearful Dream the King being terrified, Early in the Morning he flyes to the Biſhops and Monks, and declares to them the Confuſion of his Mind, and Anguiſh of his Conſcience for his Crime; but they gave him no true Remedy from the Doctrine of Chriſt (for they had already degenerated from the Piety and Learning of the Ancient Profeſsors); But adviſed thoſe many abſurdities Long ſince invented by wicked Perſons for their own gains, and raſhly believed of the Unlearned and Overcredulous, That he ſhould inrich with Gifts the Holy Places and Temples, and ſhould viſit the Sepulchres of the Saints, kiſs their Reliques, redeem his Sins by Maſses and Alms, and ſhould have a greater Honour and Reverence for the Monks and Prieſts, than he had formerly us'd to have. Neither did he omit any of theſe Expiations which he believed would help him: But he was notwithſtanding after by appointment of *Fenella*, a Lady formerly Injured by him, and an Ambuſcada of Horſe laid for him, taken and killed, as *Buchanan*, p. 192. after the death of *Kenneth*, and this Intayl of the Crown to his Iſsue by the Murder of his Brother's Son. It appears, *Buchan. rer. Scotl. lib.* 6. p. 192, 193. That *Conſtantinus* the Son of *Caten* called *Calvus*, began to diſpute much againſt the Injuſtice of this Law, to which they were circumvented by fear to aſſent; and thus he begins, *Quid enim Stultius quam rem unam omnium maximam à prudentium cenſura & Suffragiis ad Arbitrium fortunæ revocare, &c.* What (ſaith he) is more fooliſh than to take away a matter of the greateſt concern from the Votes of Wiſe Men in Parliament, and to caſt it on the Wheel of Fortune; and that theſe ſhould bind themſelves to be ruled by a Child who hath the chance to be born, and who is ruled by ſome petty Woman, and drive away moſt Valiant.

Conſtantine Calvus procures the Law of *Kenneth* to be repealed.

Valiant Men from assistance in the Government? What if the Children of Kings should have any infirmity of Body or Mind, whereby they are utterly disabled to perform necessary Acts of Empire; what if Children should have possessed the Kingdom in such time when we fought with the *Romans*, *Britons*, *Picts*, *English* and *Danes*, not for the Kingdom, but for Life? or what can be said more Mad, than what God threatens to the Contumacious, that Children should reign over them, as the highest Calamity we should enact as a Law, on our selves, and the greatest Threats of the Divine Prophets we should either contemn or run headlong into it of our own accord. Neither is there any truth in what the Flatterers of *Kenneth* boast, that by this means the Covetousness and Slaughters of Kindred are avoided. Neither are the Treacheries of Guardians less to be feared to the Children of Kings left in Minority, than of their Kindred; wherefore now the Tyrant being fallen who Ravished our Liberty, let us valiantly resume the same; and his Law Enacted by force, and assented to by fear, (if it be a Law, and not rather a selling us for Slaves) let us abrogate and repeal the same, and Restore again our Ancient Fundamental Laws, (which brought forth this Kingdom of nothing, and from so small beginnings not only advanced to such an height as is inferiour to none of our Neighbours; but when cast down, hath again raised the same to its former Strength; and let us imbrace the present opportunity while it offers it self; which if once Elapsed, we may in vain seek again. The People are by this perswaded; and the Twelfth day after the Funeral of *Kenneth*, he is chosen King *Anno Domini*, 994. And was after Slain in Battel in the Town of *Vaumond* in *Louthian* in the Second Year of his Reign. And though *Malcolumbus* or *Malcolm* the second Son of *Kenneth* the Third, who was so tormented in Conscience for Poysoning the first Son of his Brother *Duffus*, to get an Act to Intayl the Crown to his own Posterity, made no Conscience to kill *Grimus*, another Son of the same *Duffus*, in Battel; and having by the Success gotten the Power of the Sword into his hand in the Same manner as his Father *Kenneth* had by force Enacted, again by force confirmed at the Same *Scone*, by Parliament, the Act of Intayl of the Crown to the Issue of *Kenneth*, *Buchanan*, 196. Yet doth *Buchanan* the same Historian, p. 200, & 201, censure this Act of changing the Ancient Law of Election by Parliament

Malcolm Son of *Kenneth* revives and confirms the Law making the Kingdom hereditary.

Parliament of the Brother or any other person more fit than the Son, to be Injust, Imprudent and Infortunate.

Objections against the Reviver.

1. Injustice.

1. *Injust*, Because, he saith, *Ita lex enervat vires consilij publici, sine quo nullus Legitimus dominatus potest consistere.* Such a Law enervates the Strength of Parliaments, without which no Lawful Government can be; for all Government is either by Conquest or Contract. As to Conquest, there is none demanded or acknowledged on Such a Title. As to Contract, there can be none without a Parliament, who are the Representative of the People to contract for them.

2. Imprudence.

2. *Imprudent*, Because, *Propinquorum in eos qui Regno potiuntur insidias, et Regnantium adversus eos, quos et natura, et lex voluit suis; esse Charissimos Suspitiones nefarias, quas narrationis ordo Explicabit, tot priorum Seculorum clades cum illis collatæ calamitatibus quæ Alexandri tertij interitum sunt consecutæ, Leves præ ijs & tolerabiles videri possunt.* The Treacheries of Kindred against those who enjoy the Kingdom, and the wicked Suspitions of those who Reign against them, who by the Bonds of Nature and Law they ought to esteem most dear (as this discourse in order shall declare); And the Slaughters of so many former Ages compared with the Calamities which hereby followed the death of *Alexander* the Third, were light and tolerable.

Note, *Alexander* the Third began his Reign *Anno Domini* 1649. he Married first *Margaret* Daughter to *Henry* the Third King of *England*, by whom he had *Alexander*, the Prince *David*, and *Margaret* who married *Hangonamus*, or, as some call him, *Ericus*, Son to *Magnus* 4th King of *Norway*, who bare him a Daughter commonly called the *Maiden of Norway*, *Skene*. And concerning this Lady of *Norway*, saith *Buchanan*, *Lib.* 8. p.241. *Edvardus Anglorum Rex gnarus suæ sororis neptem Regis Norvegiæ filiam unam, Ex Alexandri posteris esse superstitem, Eandemq; Regni Scotorum Legitimam Heredem, Legatos ad eam deposcendam filio suo in Scotiam misit*, &c. *Edward* the First King of *England* knowing his Neice the Daughter of the King of *Norway* to be the only Remaining Issue of *Alexander* the Third, and Lawful Heir to the Crown of *Scotland*, he sent his Ambassadours into *Scotland*

The Maiden of *Norway* had United *England* and *Scotland*, if she had lived.

to

to ask her in Marriage for his Son: They when they Argued much in the Publique Convention of the Publique Benefit which would enſue ſuch Marriage, they found the Minds of the *Scots* not Diſ-inclined from that affinity; for *Edward* was a man of great Courage, and of great Power, and Ambition of greater. And the glory of his Valour in the Holy Warr while his Father was alive, and in Subduing *Wales* after his death, ſhone bright: Neither could they ever Remember the *Scotiſh* and *Engliſh* name to have been nearer Conjoyned, than under the Laſt Kings; Neither could old Hoſtility be more Commodiouſly aboliſhed, then if there were an Union made of both Nations upon Honeſt and Equal Conditions. The Marriage was therefore Readily Aſſented unto, and Conditions added by Mutual aſſent of both, That the *Scots* ſhould ſo long uſe their own Laws and Magiſtrates, till ſuch Children ſhould be born of the ſame as were able to Reign: And if none ſhould happen to be procreated, or being born, ſhould dye before their Lawful age; Then the Kingdom of *Scotland* ſhould go to the next of the Blood-Royal. Things being thus Agreed, *Michael*, or as others mention, *David Wemes*, and *Michael Scot*, two Knights of *Fife*, of great Repute for their Prudence, with their Country in thoſe Times, were ſent Embaſſadors to *Norway*; but they, becauſe *Margaret* (for that was the Young Ladies Name) dyed before their Arrival, returned home ſad and nothing done; by whoſe immature death there aroſe ſuch Controverſie as vehemently ſhook *England*, and almoſt deſtroyed the Name of the *Scots*. For to go on with the Hiſtory as he and other Writers Relate it, notwithſtanding this new Act of Intayling the Crown, there aroſe Ten Competitors for the Succeſſion, *Erick* King of *Norway*; *Florence* Earl of *Holland*; *Robert Bruce* Earl of *Anandale*; *John de Baliol*, Lord of *Galloway*; *John de Haſtings* Lord of *Abergaveny*; *John Cumyn*, Lord of *Badenair*; *Patrick de Dunbar*, Earl of *March*; *John de Veſcy*, *Nicholas de Hues*, *William de Roſs*, All or the moſt part of them alledging themſelves deſcended from *David* Earl of *Huntingdon*, Younger Brother to *William* King of *Scots*, and Great Uncle to the late King *Alexander*.

Ten Competitors aroſe to the Crown of *Scotland*, notwithſtanding the Act of Reviver making the ſame hereditary.

But the Principal and moſt Potent Factions which contended, were that of *Balyol* and *Bruce*, On which, ſaith Sir *Richard Baker*, Hiſt. 96. broke out the Mortal Diſſention between the Two Nations, which conſumed more Chriſtian Blood, and

continued

And the Wars between the Factions of *Baliol* and *Bruce*.

continued longer, then any Quarrel we read of ever did between any Two People in the World; for he that began it could not end it, but it lasted almost Three Hundred Years, and was never throughly abolished, till it pleased God to Unite the Discordant Blood of the Three Kingdoms in King *James*; Which Discords had never happened amongst these Ten Competitors, had not the Ancient Law of Electing by Parliaments the fittest of the Blood-Royal (whereby generally Brothers were Elected before Sons) been abolished. A very Imprudent way therefore is it to design for Publique Peace, what Experience shews to have the greatest cause of perpetual Wars for so long a time as 300 years together.

The Civil Wars between *York* and *Lancaster* not prevented by the Statute making the Eldest Son Heir.

The like Civil Wars in *England* followed between *York* and *Lancaster* from Generation to Generation, and this Statute of Treason prevented not the same. Another Imprudence, *Buchanan* mentions, p. 201. *Ut Reges videlicet constituamus quibus alij Rectores præficiendi, & in eorum potestatem universum tradamus populum, qui ipsi sui potestatem non habent, & qui ægre Regibus usu rerum peritis & prudentia præstantibus parent, poscimus ut qualibuscunq; Regum umbris pareant.* That we should constitute Kings to govern, who must have others set over them to govern themselves; and that we should deliver the whole People into their Power who have not power over themselves; and that we should require of such who will hardly obey the best Kings, and most Excellent in Experience and Wisdom to obey any shadows of Kings shall be set over them.

Imprudence of attempts by such Acts to perpetuate a Name or Race.

Of a third Imprudence and Infortunateness incident in this to Princes themselves, he sayes, *Quod autem privatum ex hac Lege petunt Reges Emolumentum ut generis et nominis perpetuitatem inde sibi promittunt, id quam sit vanum et fallax*, &c. That the private profit which Kings seek out of this Law, being the Perpetuity of their Race and Name, is very vain and deceitful, not only in manifold ancient Examples, but Nature it self may teach them, if they will consider with how many Laws and Rewards the *Romans* endeavoured to perpetuate the Famous Names of their Families, of whom there remains now not the least sign in the whole World conquered by them. And deservedly, I think, this happens to them who contend to give Eternity, which neither themselves have, nor can have, to a thing in its nature so flying and frail, and every moment obnoxious to all Casuality,

as

as cannot be capable of Stability; And attempt the ſame by ſuch a way as is moſt contrary to their deſign: for what is leſs faithful to Diuturnity then Tyranny? but to the ſame this new Law prepares the way, and a Tyrant is the univerſal mark of the hate of Mankind, for whom it is impoſſible to ſtand long; and when he falls, he draws the Ruine of his whole Family with him. This Endeavour of Fooliſh Men, the Deity ſeems to me, many times, to break with a Contemptuous ſtroak, and ſometimes as a Competitor with him in Power to expoſe it to publique deriſion: And I know not whether there can be any more fit or manifeſt Example of the Divine Pleaſure than in him whom we now mention: For *Milcolumbus* who ſo much Laboured to confirm by Parliament a Law Enacted by his Father by force for the Succeſſion of the Sons of Kings in their Fathers room, left no Iſſue Male behind him. And as to his two Daughters, one of them called *Beatrice*, he matched to a Noble-man call'd *Crinus*, a *Thane* of the Weſtern Iſles, and a Chief of the other *Thanes*, whom that Age call'd an *Athan*. The other call'd *Doaca*, he match'd to the *Thane* of *Angus*, by whom was begot *Macbeth*, of whom I ſhall ſpeak further in his proper place, and indeed do we not find in all Ages the greateſt Races ſooner deſtroyed than the meaner: And if any have eſcaped the Tempeſt of Time, they have not been the Lofty Cedars, but the humble ſhrubs. Where are now all the Races of Gyants of the Old World? Where are now the Races of the *Egyptian* Gods, who in the reputed forms of Men reigned on the Earth? Where is the Race of *Nimrod* the Founder of the *Aſſyrian*? Of *Arbaces* the Founder of the *Median*? Of *Cyrus* the Founder of the *Perſian* Empire? Is not the ſaying of *Solomon* true, *Prov.* 27.24. *Riches are not for ever, and doth the Crown endure to every Generation?*

Malcolm the Author of the Law of Succeſſion of Eldeſt Sons, dyed without a Son.

The Crown endureth not to every Generation.

(2.) This new Law of intayling to Sons, though it may preſerve the Counterfeit name, yet deſtroys the true Fame of the Father, which is call'd, *Iſa.* 56. 5. *a Name better then of Sons and Daughters.* As there were ſo many *Pharaohs* that the Chronologiſts are by the Ears and cannot agree which was the *Pharaoh* when *Abraham* went into *Egypt*, which was the *Pharaoh* Entertained *Joſeph*, which was the *Pharaoh* commanded the Male Children to be deſtroyed; And which was the *Pharaoh*

Children of the ſame Name, deſtroy the Name of the Father.

was drowned in the Sea. The like of the *Darinſſes*, and of the *Herods*, though they were but few, and many others.

Many other Names and Races whereby there can be no Encouragement of Fame to Vertuous Actions for Publique good; nor Diſcouragement to Vitious by Infamy, who are cauſes of Publique Evils: whereas on the contrary, as is well obſerved by Sir *Francis Bacon*, Actions of the higheſt Fame, and of greateſt Merit to the Publique, have been done by the unmarried and Childleſs Men; yea we find this Vanity of Intayling the Father's Name ſo much ſlighted by the great *Neſtorian* Church in *Perſia*, that if after Marriage a Male-Child were born, the Father loſt his own Name, and was called by the Name of his Eldeſt Son; as, if the Father's name was *Moſes*, and the Son's name *Joſeph*; the Father was no more called *Moſes*, but *Aben-Joſeph*; that is, the Father of *Joſeph*. *Heylin*, 660.

Father loſt his Name to his Son in *Perſia*.

And we find though *Darius* deſtroyed *Belſhazzar* the Son of the Conquering *Nebuchadnezzer*, and *Caſſander* the Children and Mother of the Great *Alexander*, and *Auguſtus* deſtroyed *Cæſarian* the Son of the Renowned *Julius Cæſar*, whereby the Race of every one of theſe Conquerours became Extinguiſhed ſoon after their death; yet we hear the Names of the Fathers reſound to this Day more glorioufly from the ſingle Trumpet of Fame, than they could have done from the weak Cryes of Infants in a Numerous Off-ſpring, had they left a Poſterity.

(3.) It is ſaid againſt this Law of Intayling to Sons, That though the Royal Lines are not alwaies ſo ſuddenly Extinguiſhed, as in the Laſt Examples; Yet the Periods of them and their Heirs Male, and of Races and Kingdoms themſelves are fatal, and, as ſome Polititians obſerve, terminate moſt with about the Term of about 500 Years, many under; few above. So in the Ancient Kingdom of the *Egyptians*, there were above Twenty *Dynaſtyes*, at the Period of every one of which, the Race of that King who began to Rule the *Dynaſtye*, Either Expired, or was Extinguiſhed or Deſtroyed; and it is eaſie to ſee how many Races and Names of ſeveral Kings have in ſhort time worn out and been changed to new, both in *England*, *Scotland*, *France*, *Spain*, &c. It is in vain therefore by human Laws to ſeek to reſiſt the Decrees of God, and perpetuate a Race which God hath appointed to Determine, Seeing, as *Solomon* ſaith, *Eccleſ.*

Imprudent to ſeek to perpetuate Races againſt Nature, Fate and Providence, which are irreſiſtible.

Eccles. 9. 11. *The Race is not to the swift, nor the Battel to the strong; neither yet Bread to the wise, nor yet Riches to men of understanding, nor yet Favour to men of skill.* And it is said, *Dan.* 4. *The Most High Ruleth in the Kingdom of men, and giveth it to whomsoever he will.* Better therefore both to Princes and Subjects, is the Counsel of Christ, *Matth.* 6. 33. *Seek ye first the Kingdom of God and his Righteousness, and all these things shall be added unto you.* Dan. 7. 27. *Whose Kingdom is an Everlasting Kingdom.* And as is said, *Psal.* 16. 11. *In his Presence is fulness of Joy, at his Right Hand are Pleasures for evermore.*

Answ. 1. As to the first Objection, That the Brother ought to be preferred before the Son, and Liberty left, according to ancient Custom, to the Parliament to Elect him, if he is Judged fittest for Succession; And that the Brother is alwaies most fit and more for the Safety of the Kingdom, he being alwaies of greater Age and Experience than the Son, who may chance to be a Child, and more need Tutors and Governours himself, than to Govern others. As to which part of the Reason of possibility of Minority in the Son, I answer, *Answ.* 1.

First, That *à Posse ad esse non valet Argumentum.* And with all due Honour had to the Age and Experience of others, the Eldest Son is here no Infant or *Minor*: But hath attained to a higher Maturity and Flower of Age and Strength, than *Alexander* the Great, who began at Twenty to Conquer the World; and hath shewn already the Highest Proof of Valour in War, and Affection to Religion and Justice in Peace.

Secondly, admit it should happen the Eldest Son to be an Infant or *Minor*, as the intention of this Statute is it may; which make it, notwithstanding his Infancy, Treason to Practise against him: And though an Eldest Son should be left at the Death of any King an Infant or *Minor*; yet by the Mercy of God, the Righteousness of the Title, and a standing Parliament During the Minority, The Infant and Kingdoms are as Safe, as if he were of full Age; And more Safe than in the hand of a Collateral Heir of full Age, whose Guardianship is most dangerous to a Lineal Heir.

Answ. 2. As to the Reason, That it is more for the Fame of Vertue for the Father to have none of his name; Than to have *Answ.* 2.

his name Loſt amongſt a Multitude of the ſame names derived from him to numerous Poſterity; I ſhall anſwer in the words of *Buchanan*, in another place on another diſpute, p.406. *Quod ſi de honore unus Et non de omnium ſalute hic eßet diſputatio, Ego quoq; facile ac Lubens ad eorum ſententiam accederem; verum cum de eo Statuendum ſit hodie quod omnium privatorum vitam Et fortunam, quod totius Regni incolumitatem complectitur; huic uni cogitationi omnes Singulorum rationes concedere oportet.*

Anſw. 3.

Anſw. 3. As to that Reaſon of the Objection, That Periods of Royal Races and Succeſſions to Kingdoms are natural, in regard the ſubject matter is ſo frail as not to be Capable of Perpetuity; and fatal, in regard God hath appointed the ſame by an Immutable Decree; and Providential, in regard it is often likewiſe effected by a particular Providence: and ſeeing the Laws by which God Governs the World, are the Law of Nature, the Law of Fate, and the Law of Providence, *quæ ſupra nos nihil ad nos*, they are irreſiſtible, and all Human Laws to cauſe or avoid their effects, are in vain. To which is anſwer'd and gladly acknowledg'd, That God is pleaſed to Govern the World by all theſe Three Lawes; Firſt, the Law of Nature, which is his Decree of Subordination of Cauſes. Secondly, the Law of Fate, which is his Decree of Co-ordination of Cauſes to ſuch Ends as to his Wiſedom ſeem beſt. Theſe two are the Greateſt, Imperial and Immutable Law of the World; and againſt theſe it is not only folly and a Sin to make Common Laws or Acts of Parliament, but even to pray.

God governs the World by the Lawes of Nature, Fate and Providence.

Not lawful to pray againſt the Law of Nature or Fate.

Deſine fata Deum flecti ſperare precando.

Hope not from Prayers thou
Thy Fate from God canſt bow.

Thirdly, The Law of Providence, which is the Regulation of Accidents which are neither Decreed nor Immutable. And this is the Law Paternal, by which he Governs all his Creatures ſenſible of Good and Evil. And as to this Law of Providence, human Laws, Endeavours and Prayers are not only Lawful in ſuch as are Capable to Pray, but neceſſary to obtain the good, and to avert the evil; and both theſe are acknowledged by the Heathen Poets themſelves,

Prayers not only Lawful but neceſſary in matters reſerved to Providence.

Sed

Sed ſatis eſt orâſſe Jovem qui donat et auſert,
Det vitam Det opes æquum mî animum ipſe parabo.

Hor. lib. 1. ad Lollium Epiſt.

Flectitur Iratus voce Rogante Deus. Ovid.

But if we will take our Limitations of Prayer from Chriſtians, they muſt have alwaies theſe two, That they muſt be Lawful; that is, not contrary to any revealed Law or Will of God; and likewiſe be alwaies with ſubmiſſion to his Secret Will.

The Law Moral a Fourth Law by which God governs the World.

I Anſwer therefore, That though the Three Laws mentioned are great and wonderful Wages by which God governs the World in general, and Succeſſions to Kingdoms in particular; yet they are not the only Lawes by which he doth it; but there is a Fourth Law as great as any of the former, which is the Law Moral; the obligation of which is Reward and Puniſhment, which not Improperly may be called a Law Magiſtratical; for as God is the Supreme King and Father, ſo is he likewiſe Supreme Magiſtrate of the World, and beareth not the Sword in vain. And this Law may only be Exerciſed, and the Obligations thereof laid on the moſt Noble Subjects, who are ſo in Three reſpects: First, In regard of their Knowledg, as the Law Moral can only be Exerciſed over the Subjects Senſible and Intellectual; whereas the Laws of Fate and Nature may be Exerciſed both over theſe, and over Subjects Ignorant, Inſenſible, Irrational, Fooliſh Mad-men, and deprived of all Intellect alike. Secondly, in regard of their ability, as the Law Moral can be only Exerciſed on perſons able to perform it; but the Laws of Nature, Fate and Providence, over Babes new born, Blind, Deaf, Dumb, Maimed, and the Dead themſelves. Thirdly, in regard of Liberty, as the Law Moral can only be Exerciſed over free Agents; but the Lawes of Nature, Fate and Providence may be Exerciſed over neceſſary Agents, forced Agents, Bond-men, Slaves, Captives, Priſoners and perſons in Chains and Fetters.

What Subjects liable to the Law Moral, and what not: and what lyable to the Lawes of Nature, Fate and Providence.

Though therefore all humane Actions are under one of theſe four Laws, & a Man is a neceſſary Agent as to the Law of Nature, and a forced Agent to the Law of Fate and Providence, and a free Agent as to the Moral Law; yet ſeeing he may be in many things

Not revealed to Man by which of these four Laws he doth Act in any particular Action.

things Ignorant when he is Ruled by Nature, when by Fate, when by Providence, and when by the Moral Law; and consequently it may be secret and not revealed unto him when he is a necessary agent, when a forced agent, and when a free agent; or in the more Common word, when his Will is free, and when Bond: In this Ignorance therefore of all the other Three Secret Laws, he ought to act according to the Moral Law which God hath revealed and promulgated alwaies, and according to the other Three when God hath in particular Acts of his own, manifested his Will in them, as it is an Act of God, that an Eldest Son is born who is an Infant or *Minor*; And a Brother born who is a *Major*, and this Act of God is good and of great Mercy; but that on this Act of God Murder should be Committed, or Civil Wars be unjustly Raised, is Evil, and an Act of Man, and God is not the Author of this Sin: and though no humane Law could have caused or prevented this of the Infancy of a Son, or Majority of a Brother; yet may and ought human Laws prevent or punish the wicked acts of men which may ensue thereon in attempts to Murder either; and seeing God by his Moral Law hath Commanded Powers to be a Terror to Evil Doers, it is their Duty therefore (And if they neglect it, they bear the Sword in vain) to make Laws to prevent and punish them, and not to leave Infants and Subjects Exposed in such a Wilderness of Dangers as this is of Succession, because its possible Fate may destroy them, notwithstanding the greatest human care; and Providence may, without any such care taken at all, preserve them; Which Stoical and Epicuræan Follies of *fata regunt homines*, *fatis agimur*, *Cedite fatis*, or *Res humanas ordine nullo fortuna regit*, or *vita regitur Fortuna non Sapientia*, to Extend beyond their Bounds prescribed by God, or to all humane Actions because ordained and permitted in some, were like the Ridiculous Pagan Divinity derived from none but such Authors, Not to sow, because Fate may destroy the Harvest with it; and Providence may give an Harvest without it. Not to wear Arms in War, because Fate may destroy with them, and Providence may preserve without them: Not to do good Works, because if Predestinated to be Damn'd, thou shalt be Damn'd with them; And if Predestinated to be Saved, thou shalt be saved without them. I should not have thought this of Fate worth the objecting or answering,

ing, had I not found the same Actually pres'd in the most Excellent Historian and Statist that ever writ in the Isle of *Great Britain*; for such was *Buchanan*, out of whom I have recited it?

Answ. 4. As to the Calamities of Civil Wars which followed between *Baliol* and *Bruce* in *Scotland*, and the Houses of *York* and *Lancaster* in *England*, notwithstanding the Laws in both Kingdoms making the Crown Hereditary to the Eldest Son; And that such Lawes did not prevent the same: I Answer, first, As to *Scotland*, the effect of the Law of Primogeniture could not be expected, where there was no Eldest Son surviving, nor on the Death of *Margaret* of *Norway* so much as an Heir Lineal Male or Female left; but if there had been an Eldest Son left, there is no appearance of any thing against it, but the Crown of *Scotland* had never Returned to the Line of the Earl of *Huntingdon*, but remained in the Line of King *Alexander* the Third, who was the last Possessor; which would have prevented all those Ten Competitors to claym from *Huntingdon*, and consequently the Wars between *Baliol* and *Bruce*. Then as to the Civil Wars in *England*, if *Richard* the Second had left a Son, there appears no probability that ever there had been a Civil War between *York* and *Lancaster*. Besides, if when there is an Eldest Son left, as was by *Edward* the Fourth, and an younger Son with him, and notwithstanding there followed a new Civil War between *York* and *Lancaster* in the Persons of *Richard* the Third, and *Henry* the Seventh, first though this Law of Primogeniture in Succession did not prevent it; And though the Law make it High Treason to Compass the death of the Eldest Son, yet could it not prevent the Murder of both the Sons. To which I answer, That it is not to be imputed as a fault to the Statute or Law, that some wicked persons dare break it; but is notwithstanding of greater use as the Statutes which make it High Treason to Counterfeit the Kings Seal, or to Clip Money, and Felony to Rob on the High-Way; Though many have notwithstanding Counterfeited the Seal, Clipt Money, and Rob'd on the High-way; yet are not these Statutes Useless, but a great Security to the People: for though there are now a few, if there were no such Statute at all, there would be multitudes of Malefactors.

Answ. 4. To the Objection of the Civil Wars between *Baliol* and *Bruce*, and *York* and *Lancaster*, notwithstanding the Succession of the Crown ascertained to the Kings Eldest Son.

Besides,

Richard the Third designing to Murder his Brother's Sons, first slandered them with Illegitimacy.

Besides, as to the Particular Instance of *Edward* the Fourth, it was his Inadvertency, and indeed Imprudence to Commit the Guardianship of his Son in Minority to his Brother, who thereupon forged Illegitimacy against them, and Murdered them; And it was done for want of such a Law of Succession, as was Enacted by *Kenneth* the Third, and *Malcolme Mackenneth* the Second in *Scotland*, which according to *Buchanan*, *lib.* 6. p. 191. was, *Ut Rege Impubere Tutor qui pro Rege esset interea Eligeretur vir prudentia & opibus insignis, qui ad quartodecimum usque Annum Regis nomine rem administraret. Ad id ætatis ubi Rex pervenerit ipsi sibi curatores Eligere posset.* That the King being under the Age of Fourteen Years, Election should be made of a Guardian of great Estate and Wisdom, who should be his Regent in the mean while, and Administer his Affairs in the King's Name till he arrived at the Age of Fourteen; and when he came to that Age, he himself might choose his own Guardians: Which Election of a Guardian, must be intended to be by Parliament; for it appears by the words, That the Infant or *Minor* King must not, nor is able to choose himself, till he come to the Age of Fourteen. And it is contrary to Reason, that any other should be his own Judge to choose himself, to have to himself to his own use the Custody of the Person of the King, in whom all his Subjects have an Interest. And it would be very Dangerous to the Infant, if he who is next Successor to the Crown, should get the Custody of the Heir into his hands. There is no Third Power can be therefore above Exception, who ought to choose the Guardian of an Infant King, but the Parliament; And accordingly we find it to be the constant Practice of that Kingdom, as appears, *Buchanan*, *Lib.* 19. p. 687. when it is said, *Sed cum homines usu rerum Edocti Perspicerint vix fieri posse ut in tanta fortunæ inconstantia non aliquando in pueros, aut alioqui Regno ineundo Impares hæredes, jus summi Magistratus inciderit*, &c. But when taught by Experience, men saw that it could not be but in so great inconstancy of Fortune, but the Right of the Supreme Magistracy might fall amongst Children or other Heirs unfit to Govern a Kingdom, they Ordained, That in the mean time one should be Elected Regent who Excell'd the rest in Estate and Counsel; and our Ancestors following this way for the space of Six hundred Years, have transmitted thereby the Kingdom safe to Posterity. So *Robert Bruce*, being

A Guardian by the Law of *Scotland* to be Elected by Parliament during the Minority of the Prince.

Dangerous to Commit the Guardianship of a Minor prince to the next Major.

Guardians chosen by Parliament, the only Security of Kings in Minority.

being dead, *Thomas Randolph* Earl of *Murray*, and *Donald* Earl of *Mar*, *Andrew Murray*, *John Randolph*, *Robert Stuart* ſucceeded ſingly, and ſometimes more number are by Parliament choſen into that place. So *James* II. being a child, *Alexander Leviſton* being of no Kin, nor of the chief Rank of Nobility, but only a Knight, and of more repute for Prudence then Antient Deſcent, was elected to be his Guardian. Neither can there be alledged any want of perſons of the Royal Stock to have been the cauſe of ſuch choice; for there was at that time *John Kennedy* chief of his Family, and King *James* his Nephew by his Siſter, there were his Uncles *James Kennedy* Archbiſhop of St. *Andrews*, Primate of the whole Kingdom in all kind of Vertue, and his Brother, born of the Kings Aunt, *Douglaſs* Earl of *Angus* was not remote from the Kings Blood; *Archibald* Earl of *Douglas*, in Power almoſt equal to the King, and ſuperiour to any of the reſt; yet did none of theſe complain of any Injuſtice in the Parliament for making another choice; and not long after four Guardians were given to *James* III. not taken for the Kindred, but choſen by Parliament. It was but of late that *John* Duke of *Albin* was ſent for by the Nobility out of *France* to moderate the Affairs of *Scotland*, *James* I. being then a child, and was confirmed by a publick Act of Parliament. Neither was it done becauſe he was next of Kin, for he had an Elder Brother called *Alexander*. But *James* I. being abſent, *Robert* his Uncle ruled the Kingdom. And with what Right? Was he taken for nearneſs of Blood? No he was choſen by the People. Nor ſo neither. How then was he created? When *Robert* III. was ſo ſick in body and mind, that he was not able to diſcharge his Office, he made his Brother *Robert* his Vice-Roy, and commended his Children to him. So his Brother ſtarved to death *David* his Eldeſt Son, and ſought how to deſtroy likewiſe *James* his Younger, had he not eſcaped by flight. But he being now placed in poſſeſſion of his Tyranny, and his Brother dead with grief, without Parliament or aſſent of the People he kept it, and by force left it to his Son *Mordach*, *&c.* *Buchanan* proceeds, *p.* 688. *Quid enim minus juſtum eſſe poterat quam ætatem innoxiam atq; infirmam ejus fidei committere, qui pupilli ſibi crediti mortem ſemper expectat & optat?* What can be more injuſt, then to commit the innocent and weak Age, to one who always hopes for, or wiſhes the death of the Pupil intruſted in

his hands. And after he ſaith, *Laodice* the Queen of the *Cappadoceans* is related to have killed every one of her children as in order they arrived at fourteen years of age, to gain thereby a little more time to reign. If a Mother will deſtroy her Children to get the uſe of a little time, what ſhall we think, will their old Enemies dare, yea will they not dare to do, inflamed with the Brands of Covetouſneſs, to cruelty againſt a Child hindering their hopes of a perpetual Kingdom? If this Example ſeems old and obſcure, or far-fetch'd, I will add more clear and nearer home: For who is ſo ignorant of things ſo lately acted, as he knows not *Galeacius Sfortia*, though at mans Eſtate, though married, and the Son in Law of a Potent King, to be killed by *Lodowick* his Uncle? Or to whom are the Calamities unknown which enſued that cruel Parricide, the moſt beautiful Region of *Italy* brought almoſt to a Devaſtation, the *Sfortian* Family, ſo fruitful of valiant men, deſtroyed; *Barbarians* let into the moſt pleaſant Country watered by *Po*. Againſt whoſe Rapine nothing was ſafe, againſt whoſe Cruelty nothing was ſecure. Who hath been born in the ſoil of *Great Britain*, and hath not heard of the cruel Murder by *Richard* III. King of *England* of the Sons of his Brother *Edward* IV? A great cauſe of the murder likewiſe of theſe Princes was, that Papal and Epiſcopal Laws were not aboliſhed which pretend to illegitimate whom they pleaſe.

The not aboliſhing Epiſcopal Laws which pretend to Illegitimate whom they pleaſe, the ſenſe of the Murder of *Edward* V. and his Brother.

And (5.) as to the Reaſon againſt theſe Statutes (which maketh the Crown hereditary to the eldeſt Son) that the ſame enervate the ſtrength of Parliaments, and without a Contract made by every Prince with a Parliament, no Government can be juſt, in regard if he receives not the Kingdom by Contract, he aſſumes it by Conqueſt, which over a Free Nation is unjuſt. To which is anſwered, Firſt that theſe Acts of Parliament of *England*, and *Scotland*, which entail the Crown to the Eldeſt Son, do no way weaken but confirm and eſtabliſh the Power of Parliaments and Exerciſe of the ſame for the Publick ſafety. (1) In regard the Entail being made to the Eldeſt Son by Act of Parliament, the ſame declares, that what is given by Act of Parliament, may be taken by Act of Parliament; and that every former Act inacted, may by a latter Act be repealed, according to the known Rule, *Unumquodque diſſolvitur eodem modo quo conflatum*

Anſw. 5. Making a Kingdom hereditary to the eldeſt Son weakens not the Power of Parliaments.

statum est. Secondly according to the General Examples of Acts of Parliament, amongst which nothing is more common than for later Acts to change the Entails of the Crown made by former Acts. Thirdly, This Power of Parliaments is expresly declared by Act of Parl. 13 *El.* 1. still in force, by which it is enacted that to affirm that the Laws and Statutes do not bind the Right of the Crown, and the Descent, Limitation, Inheritance, and Governance thereof, is High Treason. Fourthly, All the Reason alledged of the Antient Custom of New Election of the Successor (on every Descent) is only lest the Eldest Son should happen to be an Infant, or otherwise unfit for Government, that the Parliament might choose the fittest, which here is satisfied in the Eldest Son, who is above all exception known to be the fittest who can be chosen. Fifthly, though this reserve of Power remain naturally in Parliaments to repeal and change former Acts concerning Succession by new Acts when there is just and necessary cause, yet it is necessary likewise there should be a prævious Act to mark out the Heir in whose name the Parliament shall be called, to declare the Succession or Guardianship if he happen to be an Infant. And what if after a King happens to die there happen a Rebellion, or Invasion, which makes it impossible to assemble a Parliament, will it not be a great safety to the People, that a standing Act of Parliament hath before hand appointed the Successor to take care of the Kingdoms till he can call a Parliament to give their assistance therein. There is nothing therefore can be justly excepted against these two Acts of Parliament of *England* and *Scotland* for ascertaining by Law the Eldest Son to be Heir to the Crown. But it were a great unthankfulness to the Providence of God to undervalue such Laws, whereby all Accidents are obviated, Questions and Doubts resolved, and Objections answered by so few words as two Lines in each, and the Peace of Succession preserved in *Great Britain*, for so many hundred years, which in other Empires and Kingdoms cannot be effected without those horrid Murders of Younger Brothers by Elder, or Elder Brothers by Younger; of lineal Heirs by collateral, or collateral Heirs by lineal; of Sons by Fathers, or of Fathers by Sons; (whereby Civil Wars, Devastations, and Ruines of Kingdoms have ensued: and that the want of such Statutes, or the Breach of them have been causes of these Evils, and Enjoy-

The excellency of the two said Acts of Parliament of *England* and *Scotland*, which ascertain the Succession of the Crown to the Kings Eldest Son.

ment of them hath been the Cure, will, I hope, appear in the Objections and Anſwers following.

Objections firſt againſt the not being of the Kings Eldeſt Son within theſe Statutes, anſwered.

Object. *Obj.* 1. That the Lady his Mother was not a Queen, therefore the Kings Eldeſt Son is not within the Statute.

Anſw. Statute falſe tranſlated in the word Queen. *Anſw.* To this the anſwer is eaſie and clear, that the word *Madame ſa Compaigne* are falſly tranſlated *our Lady his Queen*, and ought to have been tranſlated *our Lady his Companion*, which is proved by the Reaſons following.

(1.) Becauſe 'tis manifeſt *ſa Compaigne* ſignifies not the word *Queen* in *ſpecie*, but any Lady Companion in general.

(2.) Becauſe it is manifeſt the makers of this Act of Parliament intended not to reſtrain their ſeveral meaning onely to a Queen, for they knew *Royne* was French for Queen as well as *Roy* for King: and if they had intended ſo, could have more certainly and eaſily ſaid, *Compas le mort noſtre Seignior le Roy & ſa Royne*, than *Madame ſa Compaigne*.

(3.) Becauſe at the time of making this Statute the famous Black Prince being the Eldeſt Son to *Edward* III. was married to *Joan* Daughter to *Edmund* Earl of *Kent*, and had Iſſue by her *Richard* of *Bourdeaux* after King of *England*, and none doubts but it was the intention of the King *Edward* III. who paſſionately affected his Grandchild *Richard*, that in caſe the Princes Wife ſhould happen to die in his life time, whereby ſhe ſhould not have been a Queen, but that notwithſtanding if the Black Prince had happened to have ſurvived him, which he did not, and been King, his Eldeſt Son *Richard* ſhould have benefit of this Statute.

(4.) It would have been made doubtful by the Biſhops who uſurped then the Papal Supremacy over Princes, of giving or refuſing to give them Coronation when they pleaſed, whether the Kings Wife ſhould be titled Queen, if the Biſhop refuſed her

her Coronation, as *Ralph* Archbiſhop of *Canterbury* did to *Adeliza* the ſecond Wife of *H.* 1. unleſs the King would ſuffer him to pull off the Crown firſt from the Kings head, and new Crown him, in acknowledgment that the Supremacy of the Coronation Office belonged to *Ralph* the Archbiſhop, *Bak. Hiſt.* 43. Touching which Office of Coronation of Kings and Queens, that it belongs to Parliaments, and not to Biſhops; and that *David* himſelf was both crowned and anointed by his Parliament and not by the Prieſt, is ſhewn, *lib.* 2. *cap.* 1. *p.*169, *&c.*

Ralph of *Canterbury* refuſeth to Crown *Adeliza* Queen, unleſs he ſhould firſt diſcrown the King.

(5.) Becauſe the Title of Queen was then under Envy, and doubtful whether not againſt the antient Law both of *England* and *Scotland*, the ſame not appearing to have been repealed by any Act of Parliament, *Bak. Hiſt. fol.*6. ſaith a Law was made by the *Weſt Saxons*, that no Wife of a King ſhould be called a Queen: *& fol.*8. that it was ſo rigorouſly obſerved that, when *Ethelwolph* had married *Judith* the Beautiful, Daughter of the Emperour *Charles* the Bald; in honour of whom, in his own Court he ever placed her in a Chair of State, with all other Majeſtical Complements of a Queen, contrary to the Law of the *Weſt Saxons*, made to avoid the great Expence of Treaſure incident to great Titles and Ceremonies, and againſt other inconveniences, and ſo much diſpleaſed his Lords thereby, that they were ready to have Depoſed him, but were prevented by his death not long after. *Buchanan Rer. Scot.* 407. takes notice of this Law, and ſays, *Saxones lege caverunt ne ulla deinceps Regis Uxor Regina vocaretur, aut in ſede honoris in publico Regi aſſideret.* And 406. mentions the like Law in *Scotland*; *Quas Reginas alii ſuo quiſque ſermone nos Regum uxores appellamus, nec altioris faſtigii nomen ullum in iis agnoſcimus; voluerunt enim opinor viri prudentes ut illa quoties mentionem ſui fieri audirent, ex adjuncto viri nomine ſe viris obnoxias eſſe meminiſſent.*

The Law of *Saxons* and *Scots* that no Wife of a King ſhould be called Queen.

(6.) The Statute by *Compaigne* intended *Sociam Thalami non Throni.* And in the ſame ſenſe is the word *Companion* uſed in Scripture, *Cant.* 1. 15. It is ſaid, *Behold thou art fair my Companion, thou art fair.* And *Mal.* 2. 14. *Yet is ſhe thy Companion, and the Wife of thy Covenant.* In both which places the word *Companion* ſignifies the *Companion of the Bed*, and not of the Throne

Non

Non bene conveniunt nec in una ſede morantur
Majeſtas & Amor----
Nulla fides regni ſociis, omniſque poteſtas
Impatiens conſortis erit.

Of the like falſe Tranſlation of the Scriptures by the Biſhops of the Hebrew words Shegal *and* Gibhira, *into the Engliſh word* Queen.

Scripture falſe tranſlated by Biſhops in the word Queen.

*Pſal.*45.9. Is thus falſly tranſlated, *Upon thy right hand did ſtand the Queen in Gold of Ophir.* Whereas the Hebrew is only *Shegal*, which ſignifies no more than *Conjux* or Wife, from *Shagal*, *Coivit*, *Concubuit*, and is no more than a Woman that hath been lain with by her Husband. In like manner 1 *King.* 15,13. & 2 *King.* 10. 13. are falſe tranſlated Queen, the Hebrew word being *Gibhira*, which ſignifies no more in French than *Madame*, as in the Statute; nor in Latin than *Hera* or *Domina*; nor in Engliſh than *Lady* or *Miſtreß*. And the Antient Hebrews, and many other Nations did no more allow the Title of Queen, except to a Queeu Regnant, than as is already ſaid did the *Saxons* or *Scots*; for *Regina* is derived *à Regendo*, and is only proper to *Gynarchies*, and imports none but the Supreme Governeſs of a Kingdom, by which Title Queen *Elizabeth* was called. Neither had *Saul* or *David* any Queens, but onely Wives, nor *Solomon* himſelf in all his Royalty of his thouſand Wives any Queen, for 700 are onely called in the Septuagint 1 *King.* 11.3. γυναῖκας ἄρχουσαι, which is no more than *Feminæ Principes* in Latine, and *Chief Women* in Engliſh. And the other 300 (which are falſly tranſlated *Concubines*, as I have elſewhere at large ſhewed) are called παλλακαὶ, which ſignifie no more in Latine than *Juvenculæ*, and in Engliſh than the honeſt name of *Young Women*: Neither was he the Son of a Queen, for his Mother, whereſoever ſhe is named, is onely called plain *Bathſheba*, as 1 *King.*1.5. *And Bathſheba went in unto the King into the Chamber, and the King was very old.* And *verſe* 28. *Then King David anſwered and ſaid, call me Bathſheba; and ſhe came into the Kings preſence, and ſtood before the King.* And 1 *Chron.*3.5. *And theſe were born unto him in Jeruſalem, Shimeah, and Shobab, and Nathan, and Solomon, four of Bathſheba the daughter*

Daughter of Ammiel. That the Biſhops have likewiſe falſly tranſlated all in the Scripture relating to Marriage and Filiation, is proved before at full *Lib.*2. *p.*142. *uſque ad p.*162. And in other matters as is affirmed by that great Linguiſt Doctor *Broughton*, they have falſe tranſlated the Old Teſtament in no leſs then 848. places.

Old Teſtament falſe tranſlated by Biſhops in 848. places.

Now that this Lady-Mother was *Madame ſa Compaigne*, which are both the words and intention of the Statute, is ſo known as need not be proved by Witneſſes. For ſhe had the honour to be *Primus Amor*, the firſt Lady Companion of the Prince, the Raies of whoſe Favour caſt upon her, made the Luſtre of thoſe Graces rarely conjoined in the ſame perſon, the more illuſtrious; for ſhe was a Virgin, and not præpoſſeſſed by another; She was a Proteſtant, and not a Papiſt; She was a Native, and not a Strange Woman; She was a Subject, and not Imperious. In her were conjoined Beauty with Chaſtity, Greatneſs with Humility, Treaſure with Frugality, Fidelity with Adverſity. Though ſhe did not reign with him to be called Queen, ſhe ſuffered with him, and was partaker of all his troubles; no bloudy Wars, no Seas, no Foreign Countries could fright her from him. But as if the Soul of that ſacred Queen *Eleanor*, the Companion of the famous *Edward* I. in his Wars to the Holy Land, had tranſmigrated into her Body, ſhe led the Pilgrimage of her life with him whitherſoever he travelled; and though ſhe had no Crown in her Life, ſhe was faithful to Death and beyond Death, left him ſuch a pledge of affection as is hoped by Gods mercy will indear her memory to all Proteſtants in the three Kingdoms, which will evince to all except the Malicious, That ſhe was *Madame ſa Compaigne*, the Lady his Companion mentioned and intended in this Statute: which is ſufficient, and as much as is neceſſary to be proved.

The Lady Mother of the Kings Eldeſt Son was *Madame ſa Compaigne* intended in this Statute.

*Object.*2. That ſhe was not married according to the Maſs-Book, Common-Prayer, Book of Canons, or Ordinance of Parliament, or by a Prieſt in a Temple; therefore the Eldeſt Son is not within this Statute.

*Object.*2.

Anſw.

Answ. Marriage by the Common Prayer Book, not necessary within the Statute.

Answ. 1. There is neither the word Marriage, Mass Book, Common-Prayer Book, Book of Cannons, or Ordinance of Parliament, Priest or Temple named in the Statute; therefore being not expressed, they are not to be intended in so wise a Statute which minded substance and not Ceremonies, and Safety of the Royal Blood and not Insecurity and Incertainty.

Marriage by the Common-Prayer-Book not necessary in time of War.

(2.) Admit the Statute had in expres terms said our Lady his Companion married by the Mass-book, which was the Book then in Fashion, at time of this Statute, yet none will deny, but when by a succeeding Power this Mass-Book was abolished or changed, as in the time of *H.*5. the Service Book of *Pauls* was changed into the Service Book of *Salisbury*, that none need to marry according to it. Then as to the Common-Prayer, and Book of Cannons at the time of the Princes taking his Lady Companion, it is known that both Mass-Book, Common Prayer Book, Book of Cannons, and all were abolished by the then Power of the Sword, and it might have been Death for a Prince to have married by a Book of Common-Prayer, or in Publick. Is any Protestant then so imprudent as to expect in such a time and place of War, and the Usurping Power prevailing in their contrary Ordinances, and threatning death and destruction to all who opposed them, that such who were in those dangers, should publickly, and with Rites and Ceremonies, by a Priest, Temple, and Altar, solemnize a Marriage? or can any be so sensless, as when in the time of King *John*, Pope *Innocent*, the *French* King, and *English* Bishops, conspired together and the Pope Excommunicated and Interdicted the King and whole Kingdom of *England* for the space of six Years, three Months, and fourteen Days before the Interdiction could be bought off. Neither payment of vast sums of Money, and the laying down his Crown, Scepter, Mantle, Sword, and Ring at the feet of *Pandolfus* the Popes Legat, and making his Kingdom tributary to *Rome*, during all which time of Interdiction there was no Church open for Marriages or Burials, but People were buried like Dogs in Ditches; and where they married God knows. And in the latter times of Potentates of Interdiction of the Common-Prayer Book, and Marriage by it, can any, I say, be so sensless as to censure in such a time those who were

Marriage by the Common-Prayer Book not necessary in time of Interdiction, Papal or Potentatical.

were excluded from all Mass-Books, Common-Prayer Books, Priests and Temples, if they make use of Gods Ordinance and not of the Priests, and married without them.

(3.) There is another Circumstance in this Case, which makes it both Unlawful and Impossible to question the Validity of this Marriage, because without Mass-Book or Common-Prayer, or Ordinance of Parliament; for the Lady Mother, who was the Royal first Companion, is now dead; And by Law of God and Man none ought to be Censured without hearing, and answering for her self, which now is impossible; for who knowes, if Question'd while alive, What besides the necessities of War, she could have alledged both as to the Fact and Law; what Matrimonial Promises or Contracts Verbal or in Writing; what Matrimonial Trusts, what Witness, what Evidence she could have produced: For which reason, even by our own Laws, as appears 39 *E.* 3. 32. If a man Marry his own Sister, which is a very unlawful Incestuous Marriage, and contrary to the Law of God, and hath Issue by her, and she dyes, if not Judicially Questioned and Sentenced for it in her Life-time; the Legitimation of her Issue shall not be questioned after her death, because she was not Summon'd to answer while alive. Of which, see more before in the Preface. So *Littleton* himself, though he is much Devoted to the Service of the Laws and Religion of his Holy Father the Pope concerning Marriages, yet he confesses, *Sect.* 399. 340. That if the Legitimation of a Child is not question'd while alive, his Heir shall never be questioned after he is Dead. And if a man Marry his Sister, and hath Children by her, if one Parent dye, though Incest, the Children are Legitimate, 39 *E.* 3. 32. But in this Case where there is no Incest, nor any other matter in the least, prohibited by the Law of God, nor pretence or colour of any but the omission of a Petty Ceremony of a Common-Prayer-Book, a human Law, and that in a time of War too, when abolished, to violate the Sanctuary of the Sepulcher and the Deceased, seems not only Unchristian but Barbarous. How unlawful the Desertion of a Virgin is while alive, hath been already shewn, *Lib.* 1. *p.* 88. But far more unlawful is the Desertions of her Children after her Death. And how Unlawful Divorce of her is after Procreation of a Child, hath been already shewn, *Lib.* 1. *p.* 94. But far more Unlawful is the Divorce of the Dead. Oh ye *Romish*

The Mother being dead, the Legitimation of the Child not to be questioned.

Death a Divorce, but no Dissolving of Marriage *quoad præterita.*

Monsters, ye are more Cruel than Death: for death it self Divorceth not *quoad præterita*, but only *quoad futura*. Death it self Nulls not, but only Dissolves the Marriage. No Dragon but that of the Seven Heads, hath a Retrospect in repeal of Lawes. No Wolves but those in Sheeps-clothing with their howles disturb the blessed Dead.

Act of Confirmation of Marriage to persons in Hostility, by Ordinance of Parliament ought to have Confirmed Marriages of those who were not in Hostility.

(4.) By the Statute 12 *Car.* 2. 33. It is Enacted, That all Marriages by pretence or colour of any Ordinance of Parliament since *May*, 1642. (which was during the Times of the War and Usurpation) shall be adjudged of the same force and effect, as if they had been solemnized according to the Rites and Ceremonies of the Church of *England*, which is according to the Common Prayer-Book. This *ACT* therefore though it give and intend Right and Justice to those who had been in Hostility, and doth take away all Cavils and Scruples might after have arisen concerning the Ordinance, Marriage and Legitimation and Succession of Children; Yet did it not intend such as were Friends should be left in a worse condition as to their Marriages and Children, than those to whom they had given the benefit of this *Act*; or that there should only a Balm be provided for the Wounds of one party, and those of the other, who were more necessitated to receive them, be left bleeding without any: for the Royal Party could then neither Marry by the Common Prayer-Books which the Sword had abolished, nor according to the Ordinance of Parliament, not daring to approach their Quarters, or to be publickly Banned at Church or Market-Cross; Especially Persons of Eminency to Expose themselves to such a Snare as might intrap them, and indanger their Lives. It was not therefore the Intention of the Protestants in this Parliament, That this *Act* of Confirmation of Marriages should have been partial, and only to Confirm one Party; but rather to have been as the *Act* of Confirmation of Judicial Proceedings made in the same Year was general to all Parties, and to have Confirmed all Marriages in general made since *May*, 1642. not contrary to the Moral Law of God, to be of the same force and effect as if they had been Solemnized according to the Rites and Ceremonies of the Church of *England*, or the Common Prayer-Book. It is an old Rule, that *Favores sunt ampliandi*, Favours are to be inlarged, and not restrained; and

Act confirming Marriage according to Ordinance of Parliament, ought to have Confirmed Marriage according to the Ordinance of God.

and it might be happy for many Families who have Suffer'd for his Majeſtie in time of the Wars, if ſuch a general *Act* of Confirmation of Marriages then made, not contrary to the Moral Law of God, were yet Enacted, and the Favour not Reſtrained only to Marriages made by Ordinance of Parliament: For as to thoſe many Papiſts who had free Liberty to Live in the Parliament Quarters (when the Royal Party had not) took advantage of, and firſt Married before Juſtices of Peace, and after by their own Prieſts: It is not Equal therefore, that Proteſtants, that could not have that Safety which Papiſts had, or if they could, thought it, perhaps, againſt their Conſcience to Marry according to the Forms preſcribed by Ordinance of Parliament, ſhould be Excluded from all Favour or Excuſe to the Marriages of themſelves, and Succeſſions of their Children, which is by this *Act* given to the Marriages and Children of theſe who were in Hoſtility, and of Papiſts themſelves.

There was likewiſe another *ACT* made 29 *Car.* 2. 1677, for the Naturalizing of Children of his Majeſty's *Engliſh* Subjects born in Forreign Countreys during the Late Troubles, which was to them a Juſt and Neceſſary Right, though it had been ſo long delay'd, and was a *Reſtitutio Naturalium*, and no leſs; yea rather a more neceſſary Right, though it hath been longer delayed, were an Act of Legitimation of the Children of all Proteſtant Parents born between *June* 14. 1641. and *March* 24. 1660, who at the time of their begetting were not prohibited by the Moral Law of God to Contract Marriage, would be *Reſtitutio Natalium*; And be a great Relief to the Children of ſuch Parents as Suffered for his Majeſtie in his Dominions, and are far more in number than ſuch Children as happened to be born beyond Sea; there having been ſo many whoſe Neceſſities Diſabled them to tranſport themſelves from the Danger at home, yet could not avoid it by ſtaying here, but living in fear of the power of the Sword, Dared neither to Marry by the Common Prayer-Book, becauſe prohibited; nor by the Ordinances of Parliament, becauſe by ſuch Publication of themſelves, they had been Expoſed to have been ſeiſed on by their Enemies. So it ſeems either ſuch *Act* of Legitimation, or the former *Act* of Confirmation of Marriages, will be Juſt and Neceſſary for the Suffering-Party not yet Relieved.

Reſtitutio Natalium as neceſſary to the Relief of the Children of ſuch as ſuffered for his Majeſty in his Dominions, as *Reſtitutio Naturalium* to ſuch as were born beyond Sea.

Not necessary for a King to be Marryed by a Priest or Common-Prayer Book.

(5.) If Bishops acknowledg in deed, what they alledge in words, Supremacy in Causes Ecclesiastical in the King, then must they acknowledg Supremacy of Marriage to be in him, because they alledg Marriage to be a Cause Ecclesiastical, and they themselves *De facto* Exercise the supremacy of Ecclesiastical Jurisdiction in it; and if they give him Supremacy of Jurisdiction of Marriage in general, They much more give Supremacy of Jurisdiction of his own Marriage in particular: for, *majus continet minus, Et cui licet quod majus est non æquum est quod minus non Licere.* If therefore a King of *England* hath Supream Ecclesiastical Jurisdiction of his own Marriage, and neither Pope nor Bishop can null or invalidate any Marriage of the King, his Predecessors, to Depose him from his Throne, nor any Marriage of his own to Dis-inherit his Lineal Heir from the Succession *& Jus Coronæ* in the King relating to Marriage and Succession, as shall be after further shewn, is different from that of Subjects; and as is by the Bishops themselves affirmed *Canon* 2. The same Supremacy belongs to the King, which belonged to the godly Kings of the *Jewes*, who could thereby marry themselves without Priest or Bishop.

The matter therefore must come to this Push, If the Bishop acknowledg the King hath Supreme Ecclesiastical Jurisdiction of his own Marriage, and no longer under a Guardian of the Spiritualities, then must he acknowledg he may Exercise the Acts of such Supremacy; for, *frustra est illa potentia quæ nunquam reducitur in actum*: And if he will acknowledg the King to be Supreme Ordinary, as all the Common Law-Books do; then must he acknowledg he may Exercise all Acts of a Supreme Ordinary: But if he will not acknowledg him to have Ecclesiastical Supremacy, and to be Supreme Ordinary, and to have the same Supremacy the godly Kings of the *Jewes* had of their own Marriages; Then must the Bishop shew a sign of his Mission from God to Exercise Supremacy, and to be Supreme Ordinary over Marriages of Kings; which neither Pope nor Bishop nor Priest ever could or can do.

A King may dispence with *Malum Prohibitum* in his own Marriage, but not with *Malum in Se*.

Now all the height of Ecclesiastical Supremacy of Marriage whereof human Power is Capable, is to Dispence with *Malum Prohibitum*, but not with *Malum in se*; *Malum Prohibitum*, is that which is Prohibited only by some positive Law of Man; *Malum in se*, is that which is Prohibited by the Moral Law of God:

God: As Prohibitions of Marriage without Banns, Licence, Ceremony, Common Prayer-Book, Priest or Temple, these make only *Mala Prohibita*, Because Prohibited only by the Positive Laws of Men, and not by the Moral Law of God; and, *Unumquodq; Dissolvitur eodem modo quo conflatum est*; All Lawes made of Marriage by men, may be again dispenced, changed, repealed and abrogated by men who have the Supremacy of Marriage. But Adultery, Fornication, Desertion of Virgins after Deflouring, Divorce of a Wife without cause, Abdication of a Natural Child without Crime, charging a Child on a wrong Father, charging adulterous or false Children on the Husband of a Woman Married by a Priest in a Temple, &c. These are *Mala in se*, Because prohibited by the Moral Law of God which is Eternal and Immutable, and cannot therefore be dispenced with or confirmed; but all Lawes, Customs, Canons, and Acts of Parliament Dispencing or Confirming any of these, are void. A King therefore who hath Supremacy Ecclesiastical, may Dispence with all *Mala prohibita*, if there were any in his own Marriage: He may Self-Marry himself, as the Kings of *Israel* and *Judah* did, without a Priest, Banns, Licence, Book of Cannons, Common Prayer-Book, Temple, or any Ceremony; And being Supreme Ordinary, as the Kings of *Israel* and *Judah* were, needs not the Bishops Certificate, but may Certifie his own Marriage according to the Moral Law of God. And this is clear and unanswerable by any who doth not deny the Supremacy Ecclesiastical.

A King being Supreme Ordinary, may Marry himself without Ceremonies, by the Law of the Land.

(6.) As Supremacy in the Person of the King inables him to Dispence with and Confirm his own Marriage in manner before said; So, *à fortiore*, the Supremacy of this Statute made by the Supreme Legislative Power both of the King and Parliament united, can clear the Marriage therein intended from all the *Mala Prohibita* laid on it; for no *Mala Prohibita* could be laid on it but by some former Common-Law, Custom, Canon, or Statute-Law: But this Statute hath Supremacy of all those: for, *Leges Posteriores, Priores contrarias abrogant*; Latter Laws abrogate all former which are contrary: So all contrary Laws which were before of Marriage, Filiation, Heirship, Succession, and Certificates of Bishops contrary to the intention of this Statute, for the Safety of the Lady his Companion, and their Eldest.

Eldeſt Son and Heir, are by the ſame Intention aboliſhed.

This Statute intended not that Marriage or Filiation ſhould be tryed by Certificate of the Biſhop.

(7.) As this Statute had Power to Enact what it Intended; So is it manifeſt, that it never intended to reſtrain the Companion Royal to be one Married by the Maſs-Book, or Book of Canons; or their Eldeſt Son and Heir to be only one ſo made by the Certificate of a Biſhop: for *Edward* the Third, who was the Author of this Statute, was one of the moſt Wiſe Valiant Kings at that time in the World; And his Predeceſſors had been freſh in Memory too much turmoyl'd with the Biſhop of *Rome* and their own Biſhops; and *John Stratford* Arch-Biſhop of *Canterbury*, ſent himſelf, though in the Head of a Victorious Army in *France*, an Inſolent Letter, wherein he charged him with Violation of the Rights of the Church and *Magna Charta*, and many other Matters, and threatned to Excommunicate all his Officers. Too great Affronts for ſo Great a Prince not to become ſenſible how dangerous It would be to ſuffer Biſhops to have to do with the Marriages, Filiations and Succeſſions of Kings, and thereby to put power into their hands, to Depoſe, and Diſ-inherit his Succeſſors when they pleaſed: and *William Wickham* Biſhop of *Wincheſter*, who was Confeſſor to his Queen *Philippa*, and ingratiated himſelf by *Alice Peirce* the King's Concubine, for Money ſhewed after how ready they ſhould be to Act ſuch Feats for *Alice Pierce* againſt Sons of firſt Wives: for out of hatred to the Famous *John* of *Gaunt* King *Edward*'s Fourth Son, for no other cauſe, but becauſe he was a great Favourer of *Wickliff*'s Doctrine, the Proto-Proteſtant of *England*, ſpread a falſe fame on him, That the Queen *Philippa*, one of the moſt Vertuous Wives that ever was, had confeſs'd to him at her Death, That he was not the King's Son; but that ſhe, to pleaſe the King the more, who deſired Sons above Daughters, ſhe being Delivered of a Daughter, cauſed her Daughter to be ſecretly conveyed away; and this *John*, the Son of a *Flemiſh* Prieſt, to be brought and put to Nurſe inſtead of her, for the King's Son. A moſt Incredible Lie; but ſuch a one as ſhews what Certificates Kings Sons may happen to have from Biſhops for being Favourers of the Proteſtant Religion. It is not therefore to be imagined, that it was intended by this Statute in thoſe times, the Biſhops and their Maſs-Books and Certificates ſhould have any thing to do with the Lady Companion of the King,

An incredible Lie by a Biſhop concerning *John* of *Gaunt* Duke of *Lancaſter*. *Tinſill*'s Hiſt. 78.

King, or their Eldeſt Son. The King likewiſe then knew, that by the then Laws of the Land, he had in himſelf the Right of Eccleſiaſtical Supremacy, and that he was the Supreme Ordinary of his own Marriage, and did never therefore intend to give away his own Prerogative to Pope or Biſhop, who, being Supreme Ordinary, could Self-Marry himſelf, and without the Biſhop Certifie his own Marriage.

A King is Supreme Ordinary of his own Marriage.

(8.) Books of Canons, Common Prayer-Books, Banns, Lycenſes, Prieſts, Temples and all other Ceremonies without which Marriage is forbidden, being only *Mala Prohibita*; and the Scripture prohibits the Prohibitions themſelves of theſe *Mala Prohibita* to Marriage, and calls ſuch Prohibitions, *the Doctrine of Devils*; which is already proved, *Lib.* 1. *p.* 52.

(9.) Marriage without the Common Prayer-Book and Prieſt, being only *Malum Prohibitum* by the Law of Man, and the ſame Marriage being *Bonum in ſe* by the Moral Law of God; *Malum Prohibitum* by the Law of Man, cannot make that *Malum in ſe*, which is *Bonum in ſe* by the Law of God. As it was *Bonum in ſe* for *Daniel* to pray to God; though *Darius*, Dan. 6. 7. by his Decree made it *Malum Prohibitum* to pray within Thirty Dayes, except to the King, (or if he had ſaid, Except by the Book of Common-Prayer, or Book of Canons, it had been all one) And under a great Penalty of being caſt into the Den of Lyons; yet notwithſtanding this had not nor could make it *Malum in ſe* in *Daniel* to pray to God without the King, Common Prayer-book, or Book of Canons, within the Thirty Daies prohibited; much Leſs had it been a *Malum in ſe* for *Darius* himſelf who had the Supremacy notwithſtanding this Eccleſiaſtical Law of his own whereby he Prohibited prayer, or if he had prohibited Marriage to his Subjects, to have Prayed or Marryed himſelf in the Manner himſelf, and not the Law of God, had Prohibited.

What is *Bonum in ſe* by the Law of God, cannot be made *Malum in ſe* by the Law of Man.

(10.) Prieſts uſe to Self-Sacrament themſelves, though they have not Supremacy, without any other Prieſt. What hinders therefore why they may not Self-Marry themſelves, ſeeing Popery it ſelf could never pretend to Raiſe Marriage to a higher Pitch then a Sacrament.

A Prieſt may ſelf-marry himſelf.

(11.) If

A Lay-man may ſelf-marry himſelf.

(11.) If Prieſts may Self-Marry themſelves, there is no Reaſon why Lay-men ſhould not be allowed the ſame Liberty of Conſcience to Self-Marry themſelves without a Prieſt.

As a King who is Supreme Ordinary may Marry himſelf without Ceremonies, by the Law of the Land: So the Subject may marry himſelf by the Law of God, which is above the Law of the Land.

(12.) *Qui poteſt majus, poteſt minus*; And that Act which doth perfect Marriage, is greater than any Act which doth only prepare or inchoat and leave it imperfect. Now it is not denyed by the Popiſh Caſuiſts and Schoolmen, and the Civilians and Canoniſts themſelves, But carnal knowledg only perfects Marriage; if therefore a Lay-Man may ſelf-Ly with his Woman, which perfects Marriage without a Common-Prayer Book, or Book of Canons, after the Prieſt hath firſt had her before him by his Bell, Book, and Candle, why may not the poor Layman ſave all his Money and Selfe Ring the Bell, Selfe take the Book, Selfe light the Candle, or Torch, Selfe contract himſelfe, *per verba de præſenti*; And then Selfe lye with a Woman; or do it firſt, without acting all this impertinent Pageantry and Running Round about Church, unleſs they would bring in again the old *Pagan* way for the Prieſt likewiſe to Do the Act of Perfection of Marriage, as the *Indian* Prieſts, and too many of the Popiſh Prieſts do Ly with the Woman firſt, before the Husband.

The Kings of *Iſrael* and *Judah*, The *Ottoman* Emperours and Subjects Self-Marry themſelves without a Prieſt.

(13.) It is very well known, that the *Ottoman* Emperours and Subjects of their Mighty Dominions, ſelf-Marry themſelves, according to the Moral Law of God, without Prieſt, Temple, Bell, Book, or Candle; yet to the ſhame of ſuch as call themſelves by the name of Chriſtians, may it be ſaid, Their Marriages are more Chaſt, their Filiation and Succeſſions more Certain, and no ſuch Adulteries, Fornications, Stewes, Brothel-houſes, and Poxes and Plagues, and other Miſchiefs thereby, as thoſe who uſe all theſe, and all the Luxuriancy of Papal and Epiſcopal Ceremonies beſides in their Marriages. And of the Miſchiefs came to *Solyman* the Magnificent, by being ſeduced by *Roxalana*, to break the Cuſtome of Emperours to Self-marry themſelves, to Marry her by a Prieſt, appears at large, *Lib.* 2. *p.*245. *&c.*

Object. 3. Not HIS Companion.

Object. 3. The Third Objection is, *That though the Lady Mother was a Companion to the King, Yet ſhe was not HIS Companion,*

panion, which is the Article of Propriety required by the Statute.

Anſw. To which is Anſwered, That if ſhe had been the Wife of another man, or any other had had a Lawful Propriety in her, it is not denied but the Objection might have been material; but here was the moſt Lawful way of Election of a Companion, and acquiring Propriety in her, not only according to Gods Ordinance, but the Lawes of all Nations, (except the Papal and Epiſcopal) and not Impertinently, as expreſſed by the Poet,

Elige de vacuis quam non ſibi vindicat alter;
Si neſcis Dominum res habet iſta ſuum.

Take her that's free; if it thou knoweſt not,
Think ſhe ſome unknown Maſter then hath got.

Here was *Poſſeſſio vacua*, *Virgo intacta*, neither Party Prohibited by any Law of God to take or yield Poſſeſſion, or acquire Propriety one in another. All Lawyers which write *de modis acquirendi Dominij* in a Wife and Children, though they lay it as a Fundamental, That Contract, Sponſions, Promiſes, yea, Buying and Selling it ſelf only create an obligation, but Transfer no Propriety without Tradition of Poſſeſſion; according to the Old Verſes,

Rem Domino vel non Domino vendente duobus,
In jure eſt potior, traditione prior.

And though acquiſition of the poſſeſſion of Women and Children by Tradition or Seizure, or other wayes, without carnal knowledge and Generation, doth only acquire the Propriety of them as of Slaves or Servants, but not as of Wives or Children; yet they affirm, and the whole Scripture affirms with them, that carnal knowledge between perſons not prohibited by the Law of God, is an acquiſition of Propriety in the Woman, and generation an acquiſition of Propriety in children. And that all Ceremonies of acquiring Propriety in Wives, without carnal knowledge; and all Adoptions for acquiring Propriety in children, without generation of them, are Fictions and Fopperies.

Object. 4. Not Married according to the Law of God.

The Scripture therefore calls every woman Lawfully laien with by a Man his Wife; and every Son he begets, his Son, which gives a Propriety; of all which Texts of Scripture I ſhall ſpeak more largely in anſwer to the next Objection.

Object. 4. *That ſhe was not Married according to the Law of God.*

Anſw. (1) Before the contrary is proved to this Negative, and the Truth ſhewen unanſwerably that ſhe was married according to the Law of God; It will be neceſſary to prove by what Law, the Law of God concerning marriage ought not and ought to be Judged, whether it be the Law of God or no.

Secondly, By what Judge, Marriage ought not and ought to be Judged to be not according, or according to the Law of God.

As to the Law by which it ought not, it is clearly and fully already prov'd; therefore to avoid repetition, I refer the Reader to the former Books, Chapters, Pages here following quoted *viz.* That it ought not to be Judged.

1. By the Law of *Moſes* and Cuſtomes of the *Jewes*, of which, *Vid. Lib.* 1. *p.* 2.
2. By the Laws and Cuſtomes of the Heathen Nations. *Vide. Lib.* 1. *p.* 10.
3. By the Laws Civil, Canon or Feudal. *Vid. Lib.* 1. *p.* 21.
4. By the Laws of *Mahomet*, *Vid. Lib.* 1. *p.* 26.
5. By Eccleſiaſtical Laws, *Vid. Lib.* 1. *p.* 31.
6. By ſuch Laws of *England Scotland* or *Ireland*, as are Reliques of Popery or contrary to the Laws of God, *Vid. Lib.* 1. *p.* 64. *uſque ad p.* 125.
7. By Ceremonial Laws, *Vid. Lib.* 1. *p.* 127.

Of the Abſurd and Ridiculous Ceremonies on which Prieſts would have Marriage, Filiation, Aliment and Succeſſion to depend, *Vid. Lib.* 1. *p.* 127.

Of

Of the Original of Compulſion to the Ceremonies of a Prieſt and Temple in Marriage, which came from the Prieſts of *Priapus* and *Venus*, Pagan Gods and Goddeſſes, *Magicians*, *Aruſpices*, *Aſtrologers*, Dæmons, with the Strumpets *Theodora*, *Marozia* and others, and Popes and Biſhops their Chaplains, *Vid. Lib.* 1. *p.* 43. 45. 52. 83. of *Theodora* and *Morozia* more, *p.* 79.

Of the final cauſes of Compulſion to the ſaid Ceremony of a Prieſt and a Temple, *viz.* the Inſatiable Luſt, Covetouſneſs and Ambition of Prieſts, *Vid. Lib.* 1. *p.* 53.

Of the moſt Diſmal Effects and Miſchiefs inſuing Compulſion of the Ceremony of a Prieſt and Temple in Marriage, *Vid. Lib.* 2. *p.* 192. *uſque ad* 250. et ultra.

Of certain other Miſchiefs not before Recited.

Of the damnable Effects enſuing Prohibitions to Marry, and nulling Marriage except by a Prieſt in a Temple, contrary to the Moral Law of God.

Other miſchiefs not before recited, of Compulſion of the Ceremony of a Prieſt and Temple in Marriage, and the falſe naming that Marriage which is no Marriage; and falſe nameing that no Marriage, which is a Marriage; whereby they call Good Evil; and Evil Good; Light, Darkneſs; and Darkneſs Light; ſo that the whole Myſtery of the Romiſh Antichriſt depends on the Compulſion of this Ceremony to Marry, Bury and Pray by a Prieſt in a Temple.

The wicked Cauſes of Prohibiting the Clergy to Marry by this Ceremony of a Prieſt and Temple, and compelling the Laity.

(1) Without this Ceremony they could not prohibit marriage to their Clergy, which *Militia Togata* of theirs to keep unmarried, is one of the *Arcana Imperij Papalis*, and was firſt Decreed by Pope *Nicholas* the Firſt. The final cauſes were,

1. That the Prieſts might have no Dependance or be under command of the Lay-Lords, by reaſon of their Wives and Families; for whom, if they kept them, they would be neceſſitated to provide Lay-Maintenance, the Spiritual being too ſhort Commons for ſo many.

2. That what Wives and Children the Prieſts had, they might ſit by other mens Fires, and be maintained at other mens Tables, and ſucceed to other mens Inheritances.

3. That the Prieſts might be the Richer and Abler to pay

the more Tributes and Taxes to the Pope.

4. That they might be provoked to Lye with the more Laymens Wives, and thereby fish out all the Secrets of their Husbands for Intelligence to Lay their own Plots, and discover those against them in Auricular Confession.

5. That they might not be put to the usual Cost of Intelligence, which is commonly very Dear, but might by this way be had for nothing, and probably with Rewards to such Gallants.

6. That between the Woman and the Priest, they might Rob the Lay-man of his Goods, and share it between them.

7. That when the Lay-man was come to die, the Woman, to whom her Living man was more pleasant than her Dying, might persuade him to make the Priest Overseer of his Goods, and of the Children he had got for him; And to give Land to Pious (that is to say) Pontifical Uses.

8. That the Lay-men might not Lye with the Priests Wives, and return to them the *Talio*, to which end they made themselves Judges of the Causes of Divorce; And made strict Canons Prohibiting the Lay Divorce *à Vinculo*, for Adult'ry, and that they should give Surety and Bond, though Divorced *à Mensâ & Thoro*, while either was Living, never to Marry again; but the Priests might turn off their Courtesans, if they suspected a Lay-man had been with them, when they pleased.

So the Priest who was the Malefactor and Adulterer with the Lay-man's Wife, was Judge in his own Case of the Lay-man's cause of Divorce, and would not allow it if he were within the four Seas; but none but himself was Judge of the cause of his Courtesans Divorce, which he may do Arbitrarily, and only for change at his pleasure. But this Prohibition of Marriage to the Clergy, nor the mischiefs thereof could not have been without Compulsion to the Ceremony of a Priest and a Temple in Marriage; nor could the Canon of *Trent* have found any other Ceremony by the omission of which to have made all other Marriages null and void, because no other Ceremony is in the Power of the Priest to compel men to, or can be Testified by him against those who omit it; nor can any other Ceremony be raised to so Luciferian an height, as to make a Ceremonial Law of Pope or Bishop, to overthrow

throw a Marriage by the Moral Law of God. But if any Priest should take a Woman, and intend to make a Courtesan of her, yet get her with Child, And Liberty of Conscience were given to such as Marry, to use such Ceremony or not use it, then would this intended Courtesan deceive the Priest in his filthy bargain, to have her only as a Courtesan, and follow him as a Wife, according to the Moral Law of God, with her Children, and so spoil his Trade of Confessing other mens Wives in secret; and if he kept not at home only with her, perhaps penance him as bad as he penanceth others. For no other Ceremony, designation or mark of difference could have been put between a Woman got with Child by a Priest, and his Wife, but the omission of this Ceremony, which every Priest would omit of purpose to free himself from her and her Children when he pleased, though not the Laymen (the more beast he.)

(2) Without this Ceremony of a Priest and a Temple, they could not pretend to make Marriage a Sacrament; nor could the Pope pretend the Supreme Jurisdiction of Marriage, whereby he presumeth to Depose Kings, and Dispose of the Succession of Kingdoms.

(3) Without Compulsion to the Ceremony of a Priest or a Temple in Marriage, the Bishop could make no Certificate against any Marriage, according to the Moral Law of God, to be no Marriage.

(4) The *Theodora*'s could not put in Adulterous Heirs into their Husband's Inheritance at their pleasure, while they are within the four Seas, if their Husbands had Liberty of Conscience allowed to marry according to the Moral Law of God, without the Ceremony of a Priest and Temple.

(5) There could be no Transubstantiation of two Persons into one Person, whereby all those mischiefs infue, mention'd *Lib.* 1. *p.* 66. without the Ceremony of a Priest in a Temple.

Of

Of the Law, by which the Law of God of Marriage, Filiation, Aliment and Succession ought to be judg'd.

Marriage ought to be judged by no Law except the Moral Law of God, and the Moral Law by no Law but it self.

As to the true Law and Ordinance of Marriage, by which alone the same ought to be judged, It is likewise already clearly & fully proved to be the Moral Law of God; and therefore to avoid Repetition, I refer the Reader, if he please, to *Lib.* 1. *c.* 8. *p.* 130. and for the Tables of the Moral Law, *Vid. Ib. p.* 131.

Of the Tables wherein the Moral Law of Marriage, Filiation, Aliment and Succession is written, and the Witnesses and Judge thereof Commissioned by God and not by Man, *Vid. ib.* 31,32.

Of the Judges by which Marriage, Filiation, Aliment and Succession ought not, and ought to be Judged.

Marriage, Filiation and Succession, ought to be judged by no Judges except the Parents or the King and Parliament.

Having found the Law by which only we ought to Judge the Law of God of Marriage to be the Moral Law of God, we ought next to consider by what Judge it ought not, and ought to be Judged by the same Moral Law. There have been mentioned before, *Lib.* 2. *c.* 1. *p.* 137. Five Competitor Judges of Marriage, Filiation, Aliment and Succession.

(1) The Bishop. (2) The Magistrate. (3) The Soldier. (4) The Parents. (5) The King and Parliament.

(1) And it hath been shewed, That the Bishop ought not to be Judge; with the several Exceptions against the Abuses of Judges in their forms of Procedure, both Ecclesiastical and Temporal; of which, *vid. Lib.* 2. *cap.* 1.

(2) That the Magistrate ought not to be Judge of Marriage, Filiation, Aliment and Succession, *vid. Lib.* 2. *cap.* 2.

(3) That the Soldier ought not to be Judge of Marriage, Filiation, Aliment and Succession, *vid. Lib.* 2. *cap.* 3.

(4) That the Parents ought to be Judge in Reference to their private Patrimonies, *vid. Lib.* 2. *cap.* 4.

(5) That the King and Parliament ought to be Judge in reference to Publick Offices, and the Succession of the Crown, *vid. Lib.* 2. *c.* 5.

What

What is not Marriage by the Moral Law of God.

That neither Intent, Conſent, Sponſion *per verba de præſenti*; nor ſuch Sponſion by a Prieſt in a Temple without Carnal knowledge, are Marriage, but Mock Marriage, *Vid. Lib.* 1. p. 83, 84, 85, 86, 87.

What is not Matrimony by the Law of God.

The Civilians, Canoniſts, Common-Lawyers, Divines, Schoolmen and Caſuiſts, are as much out in the word *Matrimony*, as they are in the word *Marriage*. And all the Kennels follow with full Crys the firſt who but opened his mouth, without the leaſt ſearch further; and as they have thereby falſely made a Contract to Marry, to be the very Act of Marriage; So have they falſely made the Contract of Matrimony to be the very Act of Matrimony. And this Error they fell not into by Ignorance, but Fraud. And the Popiſh Prieſts firſt took the Preſident from the Pagan. For without falſe naming what is not Mariage, to be Marriage; and what is Marriage, not to be Marriage; and what is not Matrimony, to be Matrimony; and what is Matrimony, not to be Matrimony; they could not have call'd Evil, Good; and Good, Evil; neither could they have perverted the Moral Law and Text of Scripture, to reward Adult'ry and Fornication under the falſe Name of Marriage and Matrimony; and puniſh Marriage and Matrimony, under the falſe Name of Adultery and Fornication, to their great Gains.

Why Prieſts falſe named Marriage Matrimony.

Matrimony, therefore, every one knows is derived from *Mare*, a Mother; and without a Mother there can be no Matrimony: A Contract to make a Woman a Mother, is ſo far from the Act of Performance which is Matrimony, that it ſeems a Preſumptuous and void Contract, becauſe impoſſible to be performed by the Contractor; for though he may Contract to Lye with a Woman, which is Marriage, and it may be in his Power to perform it, yet it is not in his Power to make her a Mother; for the conception and birth of a Child is a Miracle which none but God can do: and of this the Scripture is full, *Pſa.* 127. 3. *Children are an Heritage of the Lord, and the fruit of*

Matrimony none without a Child.

Birth of a Child the Act of God, and not of Man.

of the womb is his reward. Pſa. 139. 14. *I am fearfully and wonderfully made, which is the ſame* with *Miraculouſly* made; and ver. 15. *My ſubſtance was not hid from thee when I was made in ſecret:* and ver. 16. *Thine eyes did ſee my Subſtance; yet being unperfect and in thy book, all my members were written.* And when all this is done, he ſaith further, *Pſa.* 22. 9. *Thou art he that took me out of the womb.* And we find *Jacob* was of the ſame mind; for when *Rachel*, Gen. 30. 1. ſaid unto *Jacob*, *Give me Children, or elſe I die*, ver. 2. *Jacob*'s anger was kindled againſt *Rachel*, and he ſaid, *Am I in God's ſtead, who hath withheld from thee the fruit of the womb?* whereby there was ſomething elſe neceſſary to *Rachel*'s Matrimony, than a fruitleſs Marriage; and that *Jacob* though he Contracted to marry *Rachel*, Contracted not to make her a Mother. And till ſhe conceived a Child, there was a Marriage, but no Matrimony.

The Objection was, She was not Married according to the Law of God, therefore the Eldeſt Son is not within the Statutes.

Statute requires neither a King *de Jure*, nor a Lady Companion *de Jure*, but only *de Facto*.

Anſ. (2) It were enough ſtill to deny the Sequel, (1) Becauſe the Letter of the Statute requires not a Lady Married or lawfully Married, or Married according to the Law of God; but only a Lady Companion. (2) Becauſe it requires not a King *De Jure*, as appears, *Coke* 3 *part fol.* 7. nor a Lady Companion *De Jure*, nor a Son *De Jure*; But only a King *De Facto*, and a Lady Companion *De Facto*, and a Son *De Facto*. For though the Statute neither doubted King *Edward* to be a King *De Jure*, or, in Engliſh a Lawful King, as well as *De Facto*; nor his Lady *Philippa*, being one of the moſt virtuous Ladies in the world, to be his Lawful Lady Companion; yet ſhould the Statute have ſaid, To compaſs the Death of our Lawful Sovereign Lord the King, or of the Lady his Lawful Companion; it would have left Succeſſion more doubtful than before.

The word Lawful Incertain and Litigious.

For there never was a Law of the Land, or Law of God, or Contract ſo clear, but Lawyers Eccleſiaſtical or Common for Money have raiſed Queſtions and Doubts in, where the word *Lawful*, or any word æquipollent or to that Effect is expreſs'd: For firſt, when the word is not expreſſed, there can no Law be Implied or Intended to Judge Lawfulneſs by, but the

the Moral Law of God. But when it is expreſs'd, as in the words, *Lawful Marriage*, or, *Lawfully begotten*, they will expound them by Laws Papal and Epiſcopal, which are not the Laws of the Land; and by Laws making *Mala prohibita*, and not *Mala in ſe*, which are not the Laws of God; whereas, where it is not expreſs'd, it can only be Expounded by the Moral Law of God, which is above all Humane Laws and Statutes. Secondly, Becauſe an Act of Parliament may make the Iſſue of a Marriage, though unlawful and contrary to the Law of God, Heir to a Kingdom; As the Marriage of *David* to *Uriah*'s Wife, accompliſhed by Adultery with her, and the Murder of her Husband, yet was *Solomon* Lawfully made Heir to ſucceed *David*. So *Edward* the Sixth ſucceeded to *Henry* 8th, yet was his Mother Married while *Anne* of *Cleve*, his former Wife, was alive. And that the unlawful Marriages of Parents ought not Illegitimate, or be an Impediment to the Succeſſion of Children, is fully already proved, *Lib.* 1. *p.* 80. And to the ſame end the preſent Statute Enacts no more in general for the ſafety of the eldeſt Sons of all Kings, than the Famous Queen *Elizabeth*, 13 *Eliz.* 1. doth for her own Heirs in particular; by which Statute it is Enacted to be High Treaſon, To affirm that any ought to be Heir and Succeſſor to the Queen, except the ſame be the natural Iſſue of Her Body. So the old Leſſon of the Lawyers of the words, *Lawfully begotten*, is left out; yet no queſtion that Pious Queen intended more Lawful Heirs, than they with their Indentures, and the Prieſts with their Banns or Benedictions uſed to make. (4) Becauſe though Succeſſions to private Patrimonies may be held in ſuſpence by Diſputes of lawful and unlawful, yet ought not Succeſſions to Kingdoms ſo to be, which many times not only the leaſt Delay, but even the neglect of clearing all Doubts, and declaring the Succeſſor before-hand, deſtroys or involves in moſt bloody Civil Wars to be after deſtroyed. (5) Becauſe as is before touched concerning the word *Queen*, no Penal Statute ought or can be Extended by Equity, nor any thing be made within an Act of Treaſon, but what is within the Letter of the ſame. But ſuch Marriages or other Matters which are by any other Statute made High Treaſon, ought to be Expounded to be within that Statute within the Letter of which is ſo named or made; And not within the Intention of this Statute wherein it is not ſo made.

A Lawful Succeſſor may be of an unlawful Marriage.

The Crown entailed to the Natural and not Lawful Iſſue of the Body of Queen *Elizabeth*.

made. As by the said 13 *Eliz.* 1. It is made High Treason to affirm, That the Laws and Statutes do not bind the Succession of the Crown, that is Treason within the 13 *Eliz.* 1. But not within the 25 *E.* 3. for all which Reasons though as 'tis at first said, It were sufficient to deny the Sequel and say no more, yet that Malice it self may not have any pretence to Cavil, I hope by God's assistance, Briefly, Clearly, and Unanswerably, when the next Objection is answered, to prove she was both *De Facto* and *De Jure*, Married according to the Law of God.

Obj. 5. No Wife, no *uxor.*

Obj. 5. The fifth Objection is, *That the Lady Mother was no Wife according to the Law of God in Scripture.*

No Concubine or half-Wife, or *uxor* in Scripture.

The Reasons of this Objection are, (1) *Because the Scripture calls a Woman taken without Ceremonies, only a Concubine, or half-Wife.* (2) Because, *The word* Uxor, *signifies only a Woman made a Wife by the Ceremony of Unction of the Husbands Door-Posts, or some other Ceremony.*

Answ. 1. Though it were sufficient to shew that there's no such word as *Wife*, *Concubine* or *half-wife* in the Statute; and what is not in the Letter of a Penal Law, cannot be supplied in the Intention, nor extended by Equity; and though it were sufficient to deny the Sequel, yet to display the more the falsity of the Allegations, I shall shew there are no such words in Scripture as alleadged. For the Scripture is falsely Translated by the Bishops, and there's no such word as *Concubine* different in Signification from a Wife in the whole Originals of the Old Testament or New. Neither is there any middle word between a Wife and a Whore; Neither is there any half-Wife, between a whole one, or None at all; Neither is there any indifferent Wife, between a Lawful or Unlawful, though there may be between a good and a bad. Lastly, Neither is there any such Wife which can be Translated into the Latine word *Uxor*, so called *quasi Unctor*, from the Pagan Ceremony of Unction of her Husbands Door Posts; or so called from any Episcopal Ceremony of a Priest and Temple.

Scripture falsly Translated by Bishops in the word Concubine.

The word of the Hebrew Text which they have falsly Translated *Concubine*, is *Pilegesh*; which is derived from *Palag Divisit*, and *Ishа Fœmina*, and signifies no more than a Divided several, or in plainer English, Another Woman or Wife added

added to one or more, which the Husband had before.

The Greek word in the *Septuagint* which they have Translated *Concubine*, is Παλλακὴ, which hath a very innocent Signification, and signifies no more than *Juvencula*, a young Woman, or a young Wife, 1 *Chro.* 1. 32. *Keturah*, is by the *Septuagint* rendered Παλλακὴς Ἀβραὰμ, which they have Translated *Abraham's Concubine*; for which Reflection on *Kiturah*, they have no pretence or colour; for *Abraham* Married her not till *Sarah* was dead; the Marriage of *Keturah* therefore being Lawful and unblameable, she ought to have been Translated *Abraham's* young Wife, and not have been toucht with the ignominious and fictitious Name of *Concubine*. So ought they to have Translated the *Levites* Woman, *Judges* 19. 1. *Wife*, and not *Concubine*, or *half-Wife*; for *ver.* 3. they have Translated the *Levite* himself by the name of her *Husband*, and not her half-Husband; and *ver.* 9. They have Translated the Damosels Father to be his Father-in-Law, and not his half Father-in-Law. And by the same Reason they ought to have Translated her to be his Wife, and not what they would have to be, but his half-Wife; and *ver.* 2. They have Translated her to play the Whore, and and not half the Whore; and to run away, and not half run away; and though there was in Scripture *Pilegesh fœmina*, or *Uxor Divisa* by a new Marriage; yet there never was any *Uxor dimidiata* or half-wife we hear of therein; until this Levite, *cap.* 19. 29. took a Knife and cut his whole Wife into Twelve peices, and by all probability into two halves first, to make her run away from him after she was dead, further than ever she did while alive.

No half-Wife in Scripture.

(2.) There's no middle word between a Wife, and Whore; for if a Woman is taken for life, she is a Wife; if only *pro hâc vice*; or for a lesser Term than life, she is a Whore; and there's no middle Station for the limits of a Wife between the first time of Marriage, and the end of Life.

(3.) It being shewn before, that *Pilegesh* signifies only another Woman or Wife taken after the first, which they have false Translated *Concubine*; if therefore a second Woman or Wife is no Concubine, *à fortiore* the first can be none; and therefore *Keturah* is false Translated Concubine, who was a

third Wife; yet durſt not the Pope and Biſhops themſelves Tranſlate *Sarah*, who was *Abraham*'s firſt Woman, Concubine, though ſhe was according to *Moſes* Law Inceſtuous, being *Abraham*'s Siſter by the Father, (which *Keturah* was not) and *though it be ſaid*, Deut. 27. 22. *Curſed be he that lyeth with his Siſter the daughter of his Father*; becauſe if they had falſe Tranſlated the firſt Woman Concubine, ſo groſs a Repugnancy would have been laught at, and there would have been no foundation whereon to have forged their word *Concubine*, or Deſignation or mark, to difference it from ſuch words as they muſt of force tranſlate *Wife*.

(4.) There's no indifferent Wife between a Lawful and unlawful; for though a Lawful Wife is called a Wife, yet is not therefore an unlawful Wife call'd a Concubine, either in Scripture or our own Laws, as appears 1 *Jac. cap.* 11. The title of which Act is, *That it ſhall be Felony to Marry a ſecond Husband or Wife, the former being Living*; which Act calls this higheſt ſort of unlawful Wife, a Wife, though ſhe be a Whore, and an Adultereſs; and as there is no ſuch word as *Concubine* in Scripture, ſo there's no ſuch word in the Law of the Land. The Objection therefore is a Chimæra of a word and thing not truly in *Rerum naturâ*, much leſs in Scripture, but falſe Coined and falſe Tranſlated.

The Scripture Wife falſe Tranſlated into the Latine word *uxor*.

(5.) There's no word in the Scripture which can be Tranſlated as the Papal Tranſlation is into the Latine word *Uxor*, ſo called *quaſi Unctor* from the Pagan Ceremony of Unction of the Husbands Door-Poſt; nor can the ſame be Tranſlated from the Papal Latine word *Uxor*, by the Biſhops, into the Engliſh word *Wife*; nor any Woman be ſo called from Epiſcopal Ceremonies of a Prieſt in a Temple. It is to be here noted, That this Ceremony of Unction of the Door-Poſts which was to be with Wolfs greaſe, and the Ceremonies of untying the Woman's Girdle, and of ſtoutly eating and drinking by the Man, which the Prieſt perſuaded the People to be ſo neceſſary to Marriage, and to the naming the Parties Man and Wife, (as the Biſhops do now, the Prieſt and Temple and other Ceremonies) That they worſhipped four Goddeſſes or Dæmoneſſes of purpoſe to præſide and give their Benediction to theſe Ceremonies;

monies; and no doubt they got Fees or Offerings for them all. The Goddesses names were *Unxia*, *Cinxia*, *Victua* and *Potua*, as saith *Arnobius*, Contra Gent. Lib. 3. O! Egregia Numinum & singularis *Interpretatio potestatum, nisi postes virorum adipali unguine oblinerentur à Sponsis, nisi Virginalia vincula jam ferventes Dissolverent atq; imminentes Mariti, nisi potarent & manderent homines, Dij nomina non haberent.* Oh excellent and singular interpretation of the Gods and Powers above, unless the Door-Posts of the Men were well greased by the Woman; unless the hot and eager Husband tore off Mrs. Brides girdle; and eat and drank lustily, the Gods would have no Names, nor could the Wife get the name of a Wife. These are the Ceremonies of *Rome* Pagan, without which the Woman could not be called *Uxor* a Wife, and the same is done for no other end than filthy Lucre. Yet whom God hath joyned by his immutable Moral Law with a Husband, and hath given them Children, who are the Gift of God, and they have been both all their dayes like *John* and *Elizabeth*, Luk. 1. 6. walking in all the Commandments and Ordinances of the Lord blameless, without the Episcopal Ordinances and Ceremonies of a Priest in a Temple, this Wife of God's making shall by him be call'd (though he false Translate Scripture for it) Concubine and Whore. And a Whore and Adulteress of the Bishops making, shall be call'd a Wife of God's making; of which Episcopal Abuses to get Money, I shall only cite one Practique in *Scotland*, and after some others in *England*, Craig. Feudorum *Fo.* 230. saith, *Memini Robertum Magistrum de Semphil, Patrem Roberti nunc Principem illius familiæ, cùm ex concubinatu Joannæ Hamiltoniæ hunc ipsum filium suscepisset, & ei impensè faveret, in Articulo Mortis cùm sibi decedendum videret, ad Ædem sacram se in Lecticâ deferri curavit, ibiq; nuptiis solemniter peractis cùm domum rediisset Octavo post die fatis concessisse. Ex quo subsequente Matrimonio licet in Lecto ægritudinis in quo Decessit solemniter peracto, filius antea susceptus non minùs in Hæreditate succesſit quàm si ex legitimo Matrimonio natus fuisset.* I remember, that *Robert* the Master of *Semphil*, Father of *Robert*, now chief of that Family, when he had begotten him by his Concubine Madam *Joane Hamilton*, and intirely loved him, He being at point of Death, when he saw himself past hopes, caused himself to be carried to the Holy Church in a Litter, and there the Ceremonies of Marriage being solemnly

ly perform'd; when he was brought back again to his House, he died eight dayes after; from which subsequent Marriage although in the bed of Sickness wherein he deceased, the Son begot before did as Lawfully succeed to the Inheritance, as if he had been begot in Lawful Matrimony. And why should not the Lady have been call'd Wife, but Concubine, and the Son have succeeded without so barbarous a Ceremony, as hurrying a Dying Man to a Priest and a Temple, when he was gasping for another world, to get a Wife in this; an Act more proper to hasten his Death and Burial, than Marriage, and to have been abhorred by all Dutiful Children, had they not been compell'd by the Tyranny of such Popish Ecclesiastical Laws, as to the Dishonour of the two so Renown'd Protestant Kingdoms in *Great Britain* are Tolerated to prey worse than Death on them and their Posterity.

But of the false Translations of Scripture by Bishops, in all other words related to Marriage, see more at large, *Lib.* 2. *cap.* 1. 142 *ad* 162.

Of certain differences between a Wife of the Bishop's making, and Wife of God's making; which make the first neither within the Law of God, nor the Statute.

There's no Protestant Nation in Christendom wherein the Jurisdiction usurped by Bishops, is so high and Extravagant in making other Mens Wives and Children for them, as in *England.*

(1.) The first difference between a Wife of the Bishop's making, and of God's making, is, The former lets herself to Hire to him who will give most Jointure, Dower or Thirds for her; but the latter doth neither buy nor sell her Husband, but he keeps his own, and she hers, both Money, Goods, and Lands. Concerning mercenary Marriages, *Vid. Lib.* 1. *cap.* 6. 113. *Usq; ad* 118.

(2.) A Wife of the Bishops making, hath Power to Steal and Esloigne all her Husband's Substance, and to put it into the hands of his Enemies for her own use; and he can have no account against her, because, as is already shewn, *Lib.* 1. *p.* 70. The Bishop by his Sacrament of Marriage hath Transubstantiated

tiated two persons into one person: but the Wife of Gods making is under account; and nothing keeps a Steward Faithful, but *Account*.

(3.) The Wife of the Bishops making, hath Power given her by the Benediction of a Priest in a Temple, if she is not able her self, to hire unknown persons with her Husbands Goods to Rob, Beat and Disseise her Husband, and Esloigne his Goods, and no remedy against her: But a Wife of Gods making, though she hath Gods Benediction, which is above the Priests, hath no such power, but there's remedy against her.

(4.) The Wife of the Bishops making, hath Power to lay all her secret and unknown debts, true and feigned, by her Confederates, and as many as she will, on her husband, and to undo him, and no remedy against her.

(5.) The Wife of the Bishops making, hath Power by the Benediction of a Priest in a Temple, to commit as many Trespasses either with Tongue or hand, truly or by Confederacy with complices as often as she pleases, making her husband pay Damages till undone, and he hath no remedy.

(6.) A Wife of the Bishops making, hath full Power, by virtue of the said Benediction, to hire Adulterers with her Husbands Goods and Money to get Children to succeed to them, and he has no remedy.

Adulteresses protected, and the Son of an Adulterer made Heir before the Lawful Child of the Husband by Episcopal *Certificat.*

(7.) A Wife of the Bishops making, if she hath a Daughter by her Husband, and Elope and run away from him with another man, and hath Issue by her New Companion the Adulterer: her Eldest Son, this Son of the Adulterer, shall be Heir to the Husbands Inheritance, though he were the greatest Peer in the Land: Yea, though he had an Elder Daughter before of his own begetting by her; As appears 7 *H.* 4. *fo.* 9. Where the Case was, That *Julian* took to Husband *John de C.* in the County of *York*, and was Married at *Fleetsham*, and the said *John* had Issue by her *W*: After the said *Julian* Eloped and went into the County of *N.* and, it being not Felony in those dayes, took to Husband *W. B.* and he had Issue by her *W.* her Eldest Son, who after sued to be Heir to *John*; and the true Heir of *John* objected against him the Elopement of his Mother *Julian*, and his being begotten by the Adulterer, and not by *John*.

On

On which Justice *Rikhill* gives Judgment, That if *John* were within the Four Seas at the time of the begetting of *W.* then *W.* was the Son and right Heir-Male of *John.*

The Calf his whose Cow is Bull'd by anothers Bull.

And of this he giveth a good Lusty Reason. *For*, saith he, *who that Bulleth my Cow, the Calf is mine.* And my Lord *Coke*, Com. 244. doth on the Margin refer to this Authority of Justice *Rikhill*, and agrees with him as right as a Gun; and adds over, *That no Proof ought to be admitted to the contrary*; and therein I think none will Envy Justice *Rikhill* or my Lord *Coke*, (who I think were within the Four Seas, and never out) to enjoy the Liberty of Conscience in disposing their own Goods how they please. But there appears no Reason why they should deny the same Liberty of Conscience to all the rest of their fellow Subjects who live within the same Four Seas, to dispose of their own Goods as they think Just; neither ought they by so unequal a Sentence to have given away the Successions of True and Lawful Heirs, without allowing them hearing or witnesses, to those who are false and adulterous. And therefore from such Wives of the Bishops making, and such Judges of Marriage, Filiation and Succession, of the same making, *Libera nos Domine.*

Injust for a Prince, much more for a Judge or Bishop to force an Heir on another.

Iniquum est aliquem hæredem invito à Principe dari. Craig. Feud. 267. much more must it be for a Judge or Bishop.

Object. 6. *There is no Bishops Certificate of the Marriage and Filiation.*

The Form of the Bishops Certificate of Marriage.

Cok. Lib. Intra. fo. 181. In Dower on a *Nunquam fuit in legitimo Matrimonio copulata* pleaded; A Writ is sent to the Bishop to Certifie, who returns this Certificate, *Et predictus Episcopus per literas suas Patentes & Clausas* &c. And the foresaid Bishop by his Letters Patents and Close hath Certified to the Justices here, *That by virtue of the foresaid Writ to him directed, Convocating before him such of right as are to be Convocated, hath diligently Enquired and Certified the truth of the matter, That in the Chappel of* B. *in the County of* G. *in the Diocess of* L. *the Sixth day of* Aug. *An.* 1606. *Matrimony true, pure and lawful* per verba de præsenti, *according to the Form and Rites of the Book of Common Prayer of the Church of* England, *between the said* A. B. *and* C. B. *was*

was solemnized by one Mr. A. U. *Clerk, in the presence of* J. J. W. B. W. W. R. M. *Witnesses in this part by the said Bishop examined and sworn, and of other Witnesses then present, the said* A. B. *and* C. D. *his Wife being of Lawful Age, and of all other Matrimonial Contracts free, cleer and clean, as the Witnesses so sworn and examined believe.*

The Form of the Bishops Certificate of Bastardy, Rast. Lib. Intra. 105. b.

On a Plea of *Bastardy* pleaded, and a Writ to the Bishop to Certifie, he makes a Return, *Venerabilibus viris Justiciarijs in Brevi Regio præsentibus annex. specific. permissione Divinâ* C. *Episcopus &c. Certificamus quòd diligentem & solertem fieri fecimus Inquisitionem de materijs in Brevi prædict' Content', per quam invenimus per Legitimas in hâc parte probationes & alia in hâc parte Canonicè requisit', quòd infra nominat'* N. H. *de* T. A. H. *de* P. J. H. *de* P. & P. H. *de* P. *Bastardi sunt & quilibet eorum Bastardus est, prout prædict'* R. B. *in Brevi prædict' nominat' placitando allegavit, & non Legitimè prout prædict'* N. A. J. & E. *placitando allegarunt, & hoc idem nobis satis constat.*

We Certify, That we have made diligent and cunning Inquisition of the Matters contain'd in the Writ, by which we find by Lawful Proofs and other things Canonically in this behalf required, that the within named N. H. *of* T. A. H. *of* P: J. H. *of* P. *and* E. H. *of* P. *are Bastards, and every of them is a Bastard, as the said* R. H. *in his Writ aforesaid named in Pleading hath alledg'd, and not Legitimate as the said* N. A. J. *and* E. *have in Pleading alledg'd; and this appears cleer enough to us.*

Having shewn the Form of these Certificates what they are, I now answer to the Objection:

(1.) That the Letter of the Statute not mentioning either Marriage, Legitimation, Bishop or Certificate, there needs no Proof or use of these at all; but it is sufficient to prove a Lady Companion *De Facto*, and an Eldest Son *de Facto*, as mention'd in the Statute.

(2.) Admit there was a Marriage or Legitimation to be proved, the Statute doth not limit to any special manner of Probation, but leaves liberty to make Probation *qu. cunq; modo*, as in all other Matters.

(3.) A Penal Statute cannot be extended by Equity to make Treason against an Heir so made only by Certificate of the Bishop, seeing the Letter of the Statute makes not any such Treason; and it would be of very dangerous Consequence, to make any Intentional or Express Statute to give Power to any Bishop or Arch-Bishop to declare Kings or their Successors by Certificates under pain of Treason: for then is the old Papal Power, and greater than the Papal, put into their hands of making and deposing them at their pleasure, either under Pain of Excommunication or Treason; and the power of Declaring or laying the Penalty of Treason in the Bishop, would be greater than it was of Excommunication in the Pope.

(4.) It is manifest, that the Wise and Renowned King *Edward* the Third, the Author of this Statute (as hath been already shewn) never intended they should have thereby any such Power or Pretence; which though sufficient to answer the Objection, I shall give some further Touch of the Mischiefs that insue by them to the People, as well as to Princes.

Of the Mischiefs that insue of Bishops Certificates of Marriage and Filiation, which Certifie other kinds of Heirs than the Heir intended by this Statute.

The Original of Certificates of Marriage came not from Christ, but from the Priests of *Priapus*, and the Devil.

(1.) The Original of Bishops Certificates of Marriage and Filiation, came not from Christ or his Apostles; for we neither find, that he or they ever Contracted or Married any Man and Woman, nor gave Certificate of Marriage or Filiation themselves, nor Precept to their Successors to do the same.

(2.) The only Original of them which can be found, came from the Priests of *Priapus*, who forbid all Marriages, except by the Ceremonies of a Priest in a Temple; of which kind of unclean

unclean Priests, I shall only here repeat a short Note before mentioned, from *Cornelius Agrippa de Van. Scient.* p. 738. in these words, *Sordidissimus Priapus pro Deo habitus hunc colnerunt primi illi Religionum artifices Chaldæi, Ægyptii, Assyrii, Babylonii, Arabes, Scytha, Æthiopes, ac perinde tota Africa, Asia & Europa; nec fas erat ullum Sacerdotem fieri qui Priapi sacris non erat initiatus. Hic est ille Belphegor, Idolum omnium antiquissimum, quod est Chamos dictum, à Chamo filio Noe.* The filthy *Priapus* was reputed a God, him worshipped the first Founders of superstitious Religions, The *Chaldæans, Egyptians, Assyrians, Babylonians, Arabians, Scythians, Ethyopians,* and almost all *Africa, Asia* and *Europe*: neither was it lawful for any to be made a Priest, unless he was first Initiated in the Sacred Rites of *Priapus.* This is *Belphegor*, of all other the most ancient Idol, which is likewise call'd *Chamos*, from *Cham* the Son of *Noah.*

That these Priests of *Priapus*, who is the same with *Baal-Peor* and *Milcom*, had their Doctrine of compelling Women and Men to be Married by Priests with Ceremonies, from the Devil, appears by what use they put it to, *Numb.* 25. 1. *And the People began to commit whoredom with the daughters of Moab, and they call'd the People to the sacrifice of their Gods, and the People did eat, and bowed down to their Gods, and Israel joyned himself to Baal Peor.* And in the Scripture, Idolatry is commonly call'd *going a whoring after Idols*, because the Priests made the Men and Women the baits to intice one another, under pretence of Religion, to their Conventions in the Idol Temple, where the Priest was the Pander-General, and took the fees of all to his great Gain.

The Original of Certificates of Filiation came from the Priests of *Priapus.*

2. The Original of Certificates by the Bishop or High Priests, of Filiation, began likewise from the Incertainty Children were cast into by these Promiscuous copulations at their Temples or Groves, or other Publick Conventions by the Pander Priest; who that he might not lose his fees kept a Register or Toll-Book, where these who coupled for that time had their names entred to have paid them their fee. And when the Child got there, was grown to discretion to enquire who was his Father, his Mother, who had play'd the Whore with so many Strangers at the several Sacrifices, could not tell, unless he sent to the Priest who kept the *Priapeian* Sacrifice at that

time which ſuited neareſt her Child's Age, to ſend a Certificate of the name of the Perſon or Perſons were then entred together with her name in his Toll-Book. Which way of Certificate of Filiation by the Pagan Prieſt, was far more Rational than the Certificate thereof by the Biſhop: For firſt, the Child never ſent for a Certificate to the Pagan Prieſt, but when he did not know his Father. Secondly, The Pagan Prieſt entred in his Regiſter every time the Woman copulated with a Man; for which he had a new Fee. But the Biſhop will undertake that if it be but once ſet down in his Regiſter, That ſuch a Man and Woman came to his Temple, though they never came near one another afterward, or the next day deſerted one another, or the Woman being beforehand with Child by an Adulterer, was the next day after ſhe had been thus with the Man at the Temple delivered of ſuch an Adulterous Child, or begot with Child, or was Delivered of Twenty Children ſucceſſively by twenty Adulterers for twenty years after; yet the Biſhop will make a ridiculous, beaſtly and wicked Certificate. And *Littleton* and *Coke*, bear him out in it, That in all theſe caſes the Man who went Twenty years ſince with this Woman to his Temple, if he were within the Four Sees at the time of the begetting of theſe Adulterous Children by the Adulterers; yet he the Man within the Four Sees begot them, and *Probatio non admittitur in contrarium.* Oh! Excellent Law, and excellent Divinity. The Certificates of the Prieſts of *Priapus* are very bad, but theſe Epiſcopal Certificates are ten times worſe. But I muſt, for brevity, refer the Reader to what hath been ſaid before, *Lib.* 1, *p.* 72, 73. The original of theſe Certificates of Filiation by Prieſts for other cauſes, were likewiſe either Cheats of the Prieſts, or came from the Actual Reſponſe of the Devil: So the Prieſts would anciently attribute the begetting of any Child whoſe Father was unknown, if he proved an *Hero*, or had any other Excellence, eſpecially if Rich, and gave him Money, to ſome of the Gods; as *Romulus* and *Remus* were fathered on *Mars*; *Plato* on *Apollo*; and *Vulcan* they made himſelf a God, becauſe Ἀπάτωρ without a Father. But the greateſt number of them they laid at *Jupiter*'s Door, who no queſtion had a great charge upon his hands, and ſometimes when the Mother was unknown, they Mother'd him on ſome Goddeſs or other, as *Achilles* on *Thetis*; *Æneas* on *Venus*; *Oedipus*

The Certificate of the Prieſt of *Priapus* better than that of the Biſhop.

The Prieſt fathered Men on the Gods.

Oedipus not knowing his Father whom he had slain, nor Mother, whom he had Married, had a Response from the Oracle, or Certificate from the Priest of *Apollo*, which acquainted him with the same. And *Alexander*, ambitious to have a greater Father than *Philip*, sent to the Oracle of *Jupiter Ammon*, and for a great Sum of Gold had either a Response from the Devil, or a cheating Certificate from the Priest, That he was the Son of *Jupiter*. But we never hear amongst the Pagans themselves, of any Son who was so wise to know his own Father, or was not ashamed of him who went for a Certificate to the Priest or the Devil.

(3.) The final Causes why they so eagerly desire the Jurisdiction of Marriage and Filiation by this Power of making Certificates, are their Covetousness and Ambition, *vid.* at Large, *Lib.* 1. *p.* 53. *ad* 57. And that the Pope were ruined if Episcopal Jurisdiction of Marriage and Filiation, and their Certificates should be taken away, *Lib.* 2. *p.* 184. It may be said therefore to Bishops Certificates, as to the ends they designed them, according to the saying of Christ, *Mat.* 6. 24. *Ye cannot serve God and Mammon.*

Popery ruin'd if Episcopal Jurisdiction of Marriage were taken away.

(4.) The Persons they make Certificates against being Infants, and not able to answer for themselves in Suits in the Episcopal Courts, are Condemn'd without Hearing.

Certificates of Bishops condemn Infants without hearing.

(5.) Infants are Condemn'd by such Certificates, contrary to the Law of God, for the Sins of their Parents.

Condemn Children for the Sin of the Parents.

6. Certificates Judge of Filiation, which is acknowledged by the Bishops themselves impossible to be proved according to the old known Rule, *Filiatio non potest probari.* A Certificate Episcopal is therefore a Sentence without Probation, which is not only in the highest nature injust, but void and ridiculous. Of this, *Vid. plus. Lib.* 1. *p.* 104, 105.

(7.) The Certificate indirectly passes judgment on Temporal Inheritance and Lay-fee, which is a meer Romish Usurpation assum'd by the Bishops, which *Bracton* fo. 420. will not allow the Pope himself to have; for he says on a Certificate of Bastardy, *Cum Iudex Ecclesiasticus inquisitionem fecerit, non erit ab eo appellandum*, &c. and his Reason he gives, *Quia sic posset causam in infinitum protrahere, de Judice in Judicem usq; ad Papam, & sic posset Papa de Laico facto indirecte cognoscere.* If therefore for the Pope to Sentence, or Certificate Bastardy, is

Certificate an Usurpation of Jurisdiction of Lay-fee and Free-holds.

is indirectly to give Judgment of Lay-fee, is not such Certificate of a Bishop in *Great Britain* as indirect a passing of Judgement on Lay-fee, as is that of the Bishop of *Rome*. And do not Lay-fees lye thereby as much under the Arbitrary disposing of the one, as ever they did of the other? Both Pope and Bishop must claim this Power of Certificate by Conquest, or Contract; if by Conquest, 'tis probable they must put it to another Tryal before any Romish Conquest will be granted; if by Contract, let them shew ever any Act of Parliament made for the same, by assent of the House of Commons. And if it were possible to shew any such, yet all Acts confirming *Magna Charta*, and likewise the *Petition of Right*, repeal it. For Liberty and Propriety cannot consist with the Certificates of Bishops.

Marriage and Filiation not to be submitted to any Judges or Arbitrators, except the Parties themselves, or God.

(8.) Certificates of Marriage and Filiation, usurp the Power of Judgment of such Matters as cannot be submitted (though the Parties assented) to any Arbitrators or Judges, but God himself, or the Parties. And this is very Judiciously delivered by *West. Symbol. Tit. Compromise & Arbitrement, fo.* 165. 6. *That no causes Matrimonial are arbitrable, least men should separate those whom God hath joyn'd together.* If this is true, (as none but stupidity it self can be but sensible, that the Laws of God cannot be submitted to the Arbitrement of Men) what then becomes of all Episcopal Certificates of Marriage and Filiation, unless they intend to fight against God himself?

Bishop who certifies, ignorant both of Fact and Law.

(9.) The Judge who makes the Certificate is totally Ignorant both of the Fact and Law: which see already proved, *Lib.* 2. *p.* 180.

Herodotus tells of a Place in *Lybia*, where the Children of Women who were common, drew Lots before a Publick Assembly (but whether the Assembly were Ecclesiastical, it doth not appear) of such whom their Mothers nominated; and whom the Lot fell on, what wise Children were these? They knew them to be their own Fathers as infallibly, no question, as if they had try'd by the Witchcraft of a Seive and a pair of Shears, and equally with a Bishop's Certificate; only on the first they paid no Fees: The blind Goddess being always found so just, she will take none.

(10.) The

(10.) The Case is falsly stated, as the state of the Question which is made, is, Whether *A fuit Legitimo Matrimonio copulata*, when the intent is by the Bishops Certificate to Null the Marriage; whereas this Question, as to Nulling the Marriage, is impertinent; for every Prohibited Marriage is not Null or Nullable, but may be notwithstanding 'tis *Prohibitum* be *Indissolubile*.

(11.) 'Tis stated *Illegitimum Matrimonium* in General, and doth not say whether *Illegitimum Prohibitum*, or *Illegitimum in se*; each of which will fall under clean different Considerations one from another. And that to teach, that any *Illegitimum Prohibitum* in Marriage is unlawful, which is not *Illegitimum in se*, is the Doctrine of Devils, as is already proved, *Lib.* 1. *p.* 52. *Illegitimum Prohibitum, & illegitimum in se.*

(12.) The true state as to Filiation, being to be the question, Whether Son or no Son, 'tis false stated, and false named, Whether Bastard, or whether Legitimate or not Legitimate, where it hath been proved at large, *Lib.* 1. 79. That there's no such word or thing as Legitimate or Illegitimate amongst the ancient Lawyers, or in *Rerum naturâ*, till Popery. And *Lib.* 2. *p.* 146. and 156. That there was no such word or thing as *Bastard* in the whole Scripture, or amongst the ancient Lawyers or Divines, until the Popes and Bishops falsly Translated the Scriptures. As to the word *Mamzer*, which signifies no more than *Alienigena* and *Nothus*, which signifies no more than *Filius*, into the forementioned Scurrilous word of their own unclean Invention. The state of the Question ought to be, whether Son or no Son, which is Matter of Fact; and not whether Legitimate or not Legitimate, which is Matter in Law.

(13.) Their Certificate as to Marriage *Per verba de Præsenti*, is Nonsence; which see already proved, *Lib.* 1. *p.* 84. Certificate of the Bishop, Nonsense.

14. The Certificate distinguisheth not between Marriage Prohibited, and Null; but Nulls every Marriage Prohibited, and barbarously Illegitimates every Child born of the same, which is already proved, *Lib.* 1. *p.* 110. to be contrary to the Law of God, and the Law of *England*, and may likewise appear to be contrary to the Law of *Scotland*, by an Act of Parliament there made, *Sess.* 2. *Par.* 2. *Cur.* 1. *Act.* 22. against Clandestine Marriage; which Act Prohibits and punisheth those who are Married without Banns, or by Jesuits or Popish Priests, and layes Fines on every Nobleman, so offending, of Five Thousand Pounds; and on every Gentleman or Burgess, of Certificate of the Bishop Nulls all Marriage Prohibited contrary to the Law of *England* and *Scotland*.

of one Thousand Marks; but neither *English* nor *Scotch* make such Prohibited Marriages void, nor Nulls them, nor Illegitimates their Children; neither can any Humane Law Null that Marriage which the Moral Law of God makes valid; nor separate those whom the same Law Prohibits not to Marry (though the Law of Man doth) when God hath joyned them by Procreation and Birth of a Child.

Propriety in Parents and Children destroyed by Bishops Certificates.

(15.) The Episcopal Certificate destroys all Propriety the Father hath in his Children, and the Children have in their Father; For by the Law of God and Nature, there's no way of acquiring Propriety in Children but by begetting of them. This is Plain in the Scripture in all the Genealogies there mentioned. And in the Fact of Adultery of *David* with *Uriah*'s Wife, where the Child who was begotten in Adultery, is plainly made by the Scripture the Child of *David*; though the Now Episcopal Certificate would make it the Child of *Uriah*.

And worthily may such be said to be ignorant of all Laws of acquiring Propriety in Children, who pretend because the Propriety of another man's Lambs and Kids may by Contract of his own Wife be made his, therefore the Propriety of another man's Children may likewise by her Contract be made his; and because *Quicquid plantatur, feritur, vel inædificatur, omne solo cedit.* And Judge *Rikhill*, as before-mentioned, will not only have the like accession of another man's Bull to his Cow to make the Calf to be his; but likewise to be his Cow, and himself to be not only the Owner, but the Father of such Calf. The Ignorance of all Law in Certificates therefore blindly subverts the Fundamental of all Acquisition of Propriety by the Father in begetting. No wonder if they destroy the Propriety of the Children in the Father, though begotten by him, and make them *Nullius filii*: and again forces a Child on him who is not the Father, to be his Heir whether he will or no, and robs him of his Inheritance, *Neq; enim æquum non consentienti hæredem alium dare. Craig.* 267.

Certificates of Bishops deprive Infants of Aliment, and destroy them.

(16.) The Certificate of the Bishop expoſeth Infants to be destroyed, and deprives them of all Aliment from the Father, who begot them. For by making the Father who begot them, to have no Propriety in them, nor they in him, and the Children to be *Nullius filii*, all Obligation is taken off from the Father; and he's made worse than an Infidel not to provide for his

his own Children, either by Aliment while alive, or Succeſſion after his death.

(17.) The Certificate ſtarves and diſinherits the true Children, and Aliments and Inherits the falſe. For ſhame take away ſuch wickedneſs amongſt Chriſtians, which is not to be found among Infidels.

The true Children are diſinherited by the Adulterous on Certificates.

This hath already been ſhewn to be the wicked Practice of Epiſcopal and Common Lawyers Patronized by Judge *Rikhil*, *Littleton* and *Coke*, contrary to the Law of God, where the Husband is within the Four Seas at the time of begetting the Child, and gives power to diſinherit the right, and intrude Adulterous Heirs not only into private Families, but Kingdoms. Of which take a ſtrange attempt emboldened on this abſur'd Popiſh Principle, That adulterous Children born within Matrimony, are inheritable to the Husband of the Adulteress, and not to the Adulterer, *Anno* 1459. *Henry* of *Spain* being himſelf unable for generation, perſuaded his Queen to be got with Child by *Bertrand* of *Guttua*; *Joane* thus gotten is Proclaimed Heir, and *Bertrand* is made Earl of *Ledeſma*, and Duke of *Albuquerk*: Hiſt. Hiſp.

The People force him to reject his ſuppoſed Daughter, and to declare his Brother *Alphonſus*; and he refuſing, they Depoſe him, and Crown *Alphonſus*. Hiſt. Hiſp.

Henry overcometh: Queen *Joane* hath two Children more by another Minion; *Alphonſus* dieth; *Iſabel* the King's Siſter refuſeth the Kingdom; ſhe is declared Heir, and Marrieth *Ferdinand* of *Aragon*. Hiſt. Hiſp.

Anno 1474. Divers joyn for *Joane* with *Alf.* of *Portugal*, who meant to Marry her; But *Anno* 1480. ſhe entreth into a Monaſtery, and *Alf.* of *Portugal*. Here *Joane* was born within Matrimony, and the Certificate of the Biſhop, and the Doctrine of Judge *Rikhil*, if it had been ſent for, would have made *Joane* Heir; but the very light of Nature taught the People, though in a Countrey blinded with Popiſh Superſtition, that ſhe was not the true Heir by the Law of God, but by Fiction; therefore they would not bear it.

Biſhops Certificates make adulterous Children honorable, and true Children, baſe.

(18.) The Certificate ſlanders and diſhonours the true, and makes honourable the falſe and Adulterous Children, as appears in the before-mentioned form of Certificate of Baſtardy, *That the under-named* N. H. of T. A. H. of P. J. H. of P. and E. H. of

H. of P. *are Baſtards, and every of them a Baſtard:* He makes Baſtards by Bundles, 'tis as eaſie to him as cracking of Nuts; and though 1 *Cor.* 6. 10. after other bad Company mentioned, it is ſaid, *No Revilers ſhall inherit the Kingdom of God*, yet the mouth of this Certificate is full of Revilings, and devours no leſs than four Innocents at once, who againſt others might have had their Actions of Slander; but againſt a pretended *Jure Divino* of an Epiſcopal Slander, there's no Remedy to be had.

Certificates deſtroy Truth, and found on Fictions and Lies.

(19.) The Certificates undermine the Pillar of Truth, and lays the Foundation of Marriage and Filiation on Fictions and Lies; As that *Sponſa* before a Prieſt in a Temple is *Uxor*; That *Verba De Præſenti*, are *Facta de præterito & futuro*; That Prohibited Marriages are Null and void; That feigned and void Marriages are by Licence and Diſpenſation true and valid; That Intention is Contract; Contract is Tradition; Obligation is Propriety; and Promiſe is Gift.

Si donare vocas, promittere, nec dare, Cai,
Vincam te donis, muneribúſq; meis. Mart.

That a Child is not *Sib*, or Kin, or of Conſanguinity, or the Child of the Father who begot, or the Mother who bare him or they of him; of which ſee more, *Lib.* 2. *p.* 154, 155. That Children begot by Adulterers, were begot by the Husband within the four Seas. That two Perſons are Tranſubſtantiated into one Perſon by the words of Prieſts pronouncing them *Man and Wife*, L. 1. *p.* 66. with many other, which I forbear here to repeat. All which are meer Fictions and Falſities, and to be Abhorred, to be Tolerated to ſupport Ceremonial Mock-Marriage againſt the true Marriage according to the Moral Law of God.

Biſhops Certificates inconſiſtent with the right of Primogeniture.

(20.) The Certificate diſinherits Primogeniture in Succeſſion to Kingdoms, contrary to this Statute, and contrary to the Law of God and Nature.

Patritius Lib. 9. *De Regn. T.* 22. ſays, *Jus naturæ exigit & Gentium Conſuetudo confirmat, ut Maximus natu Ex filiis Mortuo Regi ſuccedat.* And *Tiraquel in Præfat. de Jure Primog.* with this agrees the Rule that *Deus facit Hæredes.* And no other ſign can

can be in the Law of Nature interpreted to come from God, but Primogeniture of a Son: with which likewiſe agrees the Scripture, *Deut.* 21. 15. *If a man have two women* (for that's the Original, and it is falſly Tranſlated, *Si fuerit alicui duæ Uxores) one beloved, and another hated*, and they have born him Children both the beloved and the hated; And if the firſt born Son be hers that is hated, Then it ſhall be when he ſhall make his Sons to inherit that which he hath, That he may not make the Son of the beloved Firſt born before the Son of the hated, which is indeed the Firſt born: But he ſhall acknowledge the Son of the hated for the Firſt born, by giving him a double Portion of all that he hath; for he is the beginning of his Strength, the Right of the Firſt born is his. The other Text of Scripture is, 2 *Chro. c.* 21. 1. *Now Jehoſophat ſlept with his Fathers, and was buried with his Fathers in the City of David, and Jehoram reigned in his ſtead.* And he had Brethren the Sons of *Jehoſophat*, *Azariah*, and *Jehiel*, and *Zechariah*, and *Azariah*, and *Michael*, and *Sephatiah*; all theſe were the Sons of *Jehoſophat* King of *Iſrael*, and their Father gave them great Gifts of Silver and of Gold, and of precious things, with fenced Cities in *Judah*: But the Kingdom he gave to *Jehoram*, becauſe he was his Firſt born. Now when *Jehoram* was riſen up to the Kingdom of his Father, he ſtrengthned himſelf, and ſlew all his Brethren with the Sword, and divers alſo of the Princes of *Iſrael*; And 2 *King.* 8. 18. *And he walked in the ways of the Kings of Iſrael, as did the Houſe of Ahab; for the Daughter of Ahab was his Wife, and he did evil in the ſight of the Lord.*

Jehoſophat gave the Kingdom to his eldeſt Son, and Gifts to his younger.

Which Texts, the one for Primogeniture in private Families, the other for the ſame in Succeſſions to Kingdoms, make ſuch Right appear very ſtrong in both; and theſe Obſervations tending to the ſame, may be taken from them.

(1.) That though the Eldeſt Son be the Son of a ſecond Woman Married after the firſt; yet if the Son of the ſecond be the Son Firſt born before the Son of the firſt, he ſhall be preferred in the Succeſſion.

(2.) Though the ſecond Woman is an unlawful Woman: for here are the higheſt Circumſtances which can make a Woman unlawful; for the firſt Woman is ſtill alive, and hath

H. of P. *are Baſtards, and every of them a Baſtard:* He makes Baſtards by Bundles, 'tis as eaſie to him as cracking of Nuts; and though 1 *Cor.* 6. 10. after other bad Company mentioned, it is ſaid, *No Revilers ſhall inherit the Kingdom of God*, yet the mouth of this Certificate is full of Revilings, and devours no leſs than four Innocents at once, who againſt others might have had their Actions of Slander; but againſt a pretended *Jure Divino* of an Epiſcopal Slander, there's no Remedy to be had.

Certificates deſtroy Truth, and found on Fictions and Lies.

(19.) The Certificates undermine the Pillar of Truth, and lays the Foundation of Marriage and Filiation on Fictions and Lies; As that *Sponſa* before a Prieſt in a Temple is *Uxor*; That *Verba De Præſenti*, are *Facta de præterito & futuro*; That Prohibited Marriages are Null and void; That feigned and void Marriages are by Licence and Diſpenſation true and valid; That Intention is Contract; Contract is Tradition; Obligation is Propriety; and Promiſe is Gift.

Si donare vocas, promittere, nec dare, Cai,
Vincam te donis, muneribúſq; meis. Mart.

That a Child is not *Sib*, or Kin, or of Conſanguinity, or the Child of the Father who begot, or the Mother who bare him or they of him; of which ſee more, *Lib.* 2. *p.* 154, 155. That Children begot by Adulterers, were begot by the Husband within the four Seas. That two Perſons are Tranſubſtantiated into one Perſon by the words of Prieſts pronouncing them *Man and Wife*, L. 1. *p.* 66. with many other, which I forbear here to repeat. All which are meer Fictions and Falſities, and to be Abhorred, to be Tolerated to ſupport Ceremonial Mock-Marriage againſt the true Marriage according to the Moral Law of God.

Biſhops Certificates inconſiſtent with the right of Primogeniture.

(20.) The Certificate diſinherits Primogeniture in Succeſſion to Kingdoms, contrary to this Statute, and contrary to the Law of God and Nature.

Patritius Lib. 9. *De Regn. T.* 22. ſays, *Jus naturæ exigit & Gentium Conſuetudo confirmat, ut Maximus natu Ex filiis Mortuo Regi ſuccedat.* And *Tiraquel in Præfat. de Jure Primog.* with this agrees the Rule that *Deus facit Hæredes.* And no other ſign can

can be in the Law of Nature interpreted to come from God, but Primogeniture of a Son: with which likewiſe agrees the Scripture, *Deut.* 21. 15. *If a man have two women* (for that's the Original, and it is falſly Tranſlated, *Si fuerit alicui duæ Uxores*) *one beloved, and another hated*, and they have born him Children both the beloved and the hated; And if the firſt born Son be hers that is hated, Then it ſhall be when he ſhall make his Sons to inherit that which he hath, That he may not make the Son of the beloved Firſt born before the Son of the hated, which is indeed the Firſt born: But he ſhall acknowledge the Son of the hated for the Firſt born, by giving him a double Portion of all that he hath; for he is the beginning of his Strength, the Right of the Firſt born is his. The other Text of Scripture is, 2 *Chro. c.* 21. 1. *Now Jehoſophat ſlept with his Fathers, and was buried with his Fathers in the City of David, and Jehoram reigned in his ſtead.* And he had Brethren the Sons of *Jehoſophat*, *Azariah*, and *Jehiel*, and *Zechariah*, and *Azariah*, and *Michael*, and *Sephatiah*; all theſe were the Sons of *Jehoſophat* King of *Iſrael*, and their Father gave them great Gifts of Silver and of Gold, and of precious things, with fenced Cities in *Judah*: But the Kingdom he gave to *Jehoram*, becauſe he was his Firſt born. Now when *Jehoram* was riſen up to the Kingdom of his Father, he ſtrengthned himſelf, and ſlew all his Brethren with the Sword, and divers alſo of the Princes of *Iſrael*; And 2 *King.* 8. 18. *And he walked in the ways of the Kings of Iſrael, as did the Houſe of Ahab; for the Daughter of Ahab was his Wife, and he did evil in the ſight of the Lord.*

Jehoſophat gave the Kingdom to his eldeſt Son, and Gifts to his younger.

Which Texts, the one for Primogeniture in private Families, the other for the ſame in Succeſſions to Kingdoms, make ſuch Right appear very ſtrong in both; and theſe Obſervations tending to the ſame, may be taken from them.

(1.) That though the Eldeſt Son be the Son of a ſecond Woman Married after the firſt; yet if the Son of the ſecond be the Son Firſt born before the Son of the firſt, he ſhall be preferred in the Succeſſion.

(2.) Though the ſecond Woman is an unlawful Woman: for here are the higheſt Circumſtances which can make a Woman unlawful; for the firſt Woman is ſtill alive, and hath

born the Husband Children as well as the ſecond. For the words of the Text are, *They have born him Children*, both the beloved, and the hated: Yea, it may often fall out, That the Children of the firſt Woman may be firſt born, and elder than the Children of the ſecond Woman; yet if the firſt and the Lawful man hath an eldeſt Daughter, and the ſecond and unlawful Woman hath an eldeſt Son; The Son of the ſecond unlawful and hated Woman ſhall ſucceed before the Daughter of the firſt Lawful and beloved Woman, *à Fortiore*, ſhall the eldeſt Son, if born of the firſt Woman ſucceed.

Primogeniture to be in Marriage, though without Ceremonies.

(3.) Though there is no Ceremonial, but only the Moral Marriage, yet ſhall the eldeſt Son of the Moral Marriage inherit: For it is not mentioned, nor is it that the Woman who brought forth the Firſt born ſhould be firſt carried before a Prieſt in a Temple, before the Woman who had a younger Son; for that would be repugnant to the Law of Succeſſion by Primogeniture, and impoſſible to conſiſt with it; and the *Iſraelites* never uſed any ſuch Ceremony or other: But uſed the firſt Solemnity of Marriage when they uſed any, except *Sub Dio*, where they might ſee the Heavens in Memory of the Promiſe made to *Abraham*, Gen. 15. 5. That his Seed ſhould be in Number as the Stars.

(4.) 'Tis to be obſerved, That not an eldeſt Son by Fiction of an Husband who was within the Four Seas, but the truly firſt begotten Son ſhall ſucceed: for the words are (he may not make the Son of the beloved firſt born, but the Son of the hated, which is indeed the firſt born) ſo not the eldeſt Son by Fiction, but the eldeſt Son indeed is here only both expreſſed and intended.

(5.) That the Right of Primogeniture extends not only to Aliment, for that all Children, elder and younger, Sons and Daughters, have an equal right to. But the right of Primogeniture extends in private Families amongſt the *Iſraelites* to a double Portion, and in Succeſſion to Kingdoms to the whole: For the words in *Deut.* are (*A double Portion of all that he hath*) and the words of *Chro.* are (*The Kingdom he gave to Jehoram, becauſe he was his firſt born.*)

(6.) That the reaſon why a greater Portion is given to the eldeſt of what is Superalimentary, than to the younger Children, is, That he is the Chief ſtrength of the Family to defend the

the Father when Aged, and the Children when left in Minority, and the Inheritance it ſelf, when Invaded by Pretenders. The words therefore are *(for he is the beginning of his ſtrength, the Right of the firſt born is his.)*

(7.) That the Biſhop ought not to be witneſs of the Filiation or Primogeniture of the Son. But the Matter being in the *Iſraelites* Countrey, the ſame ought to be teſtified by two or three witneſſes, as *Deut.* 19. 15. and more modeſtly by *Feminine* witneſſes, than *Per Papas mares*; as likewiſe appears by the Example, *Gen.* 38. 27. *And it came to paſs in the time of her Travail, that behold Twins were in her womb. And it came to paſs when ſhe Travailed, that the one put out his hand, and the Midwife took and bound upon his hand a Skarlet Thread, ſaying, This came out firſt; and it came to paſs as he drew back his hand; that behold his Brother came out, and ſhe ſaid, How haſt thou broken forth? This breach be upon thee*; therefore his name was called *Pharez. And afterward came out his Brother that had the Skarlet Thread upon his hand, and his name was called Zarah.*

Feminine Popes if any, and not Male, ought to make Certificates of Primogeniture.

(8.) That the Biſhop ought not to be Judge of the Filiation or Primogeniture, but the Father himſelf; for the words are *(He ſhall acknowledge the Son of the hated for the firſt born)* which is the Natural Father ſhall acknowledge or Cognoſce him to be his firſt born.

(9.) That in Countries under Arbitrary Power, and the Regal Power not limited by Laws, both the Royal Iſſue and Nobles lye commonly under great Danger of being cut off by new Succeſſors, unleſs they are of the true Religion, and fear God.

(10.) That ſuch Succeſſors are often ſet on to great Cruelties by Idolatrous Wives, as appears in this Example of *Jehoram*, who, as is mentioned in the Text, ſlew all his Brethren with the Sword, and divers alſo of the Princes of *Iſrael*: And he walked in the way of the Kings of *Iſrael* as did the houſe of *Ahab*: for the Daughter of *Ahab* was his Wife, and he did evil in the Sight of God.

(11.) That in ſuch Countries where Religion and Laws bear not ſway, the more Rich and Potent the younger Sons of Princes are made, the more danger they incur of loſing all. (1) Becauſe the Treaſury of the Crown is thereby Exhauſted and Impoveriſhed; as here *Jehoſophat* gave his younger Sons great gifts

gifts of Silver and Gold, and of Pretious things. The great value of which after his Death did but accelerate the Resumption of them by him who succeeded in his Throne, and shewed the Truth of what is said by *Solomon*, Eccles. 5. 18. *There is a sore evil which I have seen under the Sun, namely Riches kept for the owners thereof to their hurt.* (2) Because great Military Power is commonly joyn'd with Treasure as here appears, Together with the same he gave them fenced Cities; both which many times make the Supreme fearful of such Power, not only too great to be subject, but greater than his own; whereas if they had been left what was Moderate below Envy and above Contempt (as the younger Sons of the *China* Emperors are, and thereby enjoy more secure and happy fates than the Sons of the *Grand Seignior*, *Persian*, *Negus* and *Mogul* ever attain) they might probably have lived, and though their Brother *Jehoram* was wicked, never had his hands embrued in their Blood.

Excess of Treasure and fenced Cities left to younger Sons of Princes, commonly destroys them.

Of the General Custom of Nations of Succession to Kingdoms by Primogeniture, and of the Mischief and Civil Wars which have followed by Disinheriting the eldest Son.

Having shewn the Right of Primogeniture in Successions to Kingdoms from the Law of Nature and Scripture, the same likewise appears to be generally the Custom of all Nations, That the same Custom was amongst the *Ægyptians* as well as the *Israelites*, is inferred by *Lyra* from *Exod.* 12. 29. *And it came to pass that at Midnight the Lord smote all the first born of the Land of Ægypt, from the first born of Pharoah that sate on his Throne unto the first born of the Captive that was in the Dungeon.* And that the same Custom continued in the times of the *Ptolomies* appears *Justin* 16. So was it amongst the *Trojans*, and *Hus* succeeded to *Troyas*, as *Dares* to *Phrygius* in *Lib. De Excid. Tro.* The same Custom of Succession to Kingdoms by Primogeniture was amongst the *Persians*, *Syrians*, *Macedonians*, *Parthians*, *Cretans*, *Rhodians*, *Albans*, *Romans*, *Sicilians*, *Goths*, *Franks*, *Tartars*, *Turks*, *English*, *Scots*, *Hungarians*, *Spaniards*, and *French*; and the mischiefs that have insued by disinheriting of Primogeniture, either wholly, or by Division of Succession into several Kingdoms have been Infinite.

Amongst

Amongſt the *Perſians*, *Cyrus* the younger Brother by the aſſiſtance of *Pariſatis* the Queen Mother, contending for Succeſſion againſt *Artaxerxes* the eldeſt, raiſed ſuch Wars and drew in ſuch Foreign Forces of *Greeks* as the ſame ceaſed not till himſelf was ſlain by the Army of *Artaxerxes*.

The Civil Wars between *Hircanus* the eldeſt, and *Ariſtobulus*, the younger Son could not be ceaſed till *Pompey* by the *Roman* Power reſtored the Kingdom to *Hircanus* the eldeſt.

How many *Patricides*, or *Matricides* or *Fratricides* this hath caused appears, as to the firſt two by the Examples of *Alphonſus* the Tenth King of *Caſtile*, of *Gabriel* the younger Son of the Marqueſs of *Saluſſe*, who by aſſiſtance of his Mother, caſt his elder Brother into Priſon, pretending he was out of his Wits, who breaking out of Priſon, recovered his Principality, and having chaſed out his Brother, Coupt up his Mother in the ſame Priſon wherein ſhe had before Coupt him. Diſinheriting the eldeſt Son cauſeth *Patricides*, *Matricides*, and *Fratricides*.

The like appears in ſeveral *Perſians*, *Turks* and *Africans*. And for *Fratricides* which it cauſeth, *Bodin Lib.* 6. *cap.* 5. 735, 736. ſaith, Fooliſhly therefore do thoſe Parents, who overcomed with the flattery of their younger Sons, and diſinheriting the elder of their Kingdom, have incenſed their Children moſt cruelly to Murder one another ſo, as did the Father of *Atreus* and *Thyeſtes*, who willing to prefer the younger before the elder, as more fit to manage Affairs of State, ſo filled and foyled his Houſe with many Tragedies.

And not to ſeek farther from home, we have ſeen all this Realm on fire with Civil Wars; for that *Lewis* the Devout, at the intreaty of his ſecond Wife, had preferred *Charles* the Bald before *Lothayr* his elder Brother: wherefore Pope *Pius* the Second did wiſely in Rejecting the Requeſt of *Charles* the 7th, the *French* King deſirous to have preferred *Charles* his younger Son before *Lewis* the Eleventh his elder Brother; howbeit that the King had Reaſon ſo to do, conſidering that *Lewis* had without any juſt occaſion twice taken Arms againſt him, ſo to have taken from him the Crown, and to have taken the Scepter out of his hand.

And as *Bodin* ſaith of *France*, he need not look far from home; ſo may we ſay of *England*, we need not look far from home, for the ſaid Events of diſinheriting Primogeniture. For what cauſed all thoſe cruel Wars between the Houſe of

York

York and *Lancaster* from Generation to Generation, whereby the *Engliſh* loſt both all their Conqueſts and Hereditary Poſſeſſions in *France*, and ſo many Princes of the Blood, and Nobles and Commons were ſlain, but that the Line of a younger Brother contended to be preferred before the Line of an elder? And have not as bad Effects happen'd when the Succeſſions of Kingdoms have been joyn'd or divided to more Sons or Heirs than one?

Diviſion of Kingdoms or part of them or of the Treaſure from the eldeſt to younger Sons, deſtructive to Kingdoms.

The Father of *Jugurtha* made him and his two Brothers Aſſociates, but he killed his two Brothers, and took all himſelf.

Conſtantine divided the Empire to his three Sons, they deſtroyed each other, till one had all. *James* King of *Aragon* appointed *Peter* his eldeſt Son to be King of *Aragon*, and *James* his younger Son to be King of *Majorca*; yet afterwards the elder Brother took the younger Priſoner, and in Priſon ſtarved him. So it befell alſo the Children of *Botiſlaus* the Second King of *Polonia*, who having divided the Kingdom unto his four Sons, and having left nothing unto his fifth, kindled ſuch a fire of Sedition as could not be after quench't without much Blood of his Subjects. So *William* the Conqueror left the Dutchy of *Normandy* to *Robert* his eldeſt, aud *England* to *William Rufus*, and his youngeſt Son *Henry* a Penſion. *Robert* after the Death of *Rufus* raiſing a War to recover his Right of Primogeniture in *England* from his younger Brother, loſt the Battel, was taken Priſoner by *Henry*, and deprived of his Sight, caſt into Priſon and there died miſerably. It had been ſafe therefore for the Preſervatiou of his Houſe and Kingdom, to have left the Dominions intirely to the eldeſt, and to have left not one only, but both his younger Sons Penſions. A multitude of other Examples there are of the ill ſucceſs where Primogeniture is deprived not only of the whole, but of any conſiderable part or member of the Inheritance either in Land or Treaſure; which appears in the forementioned example of the Treaſure, and fenced Cities given to the younger Sons of *Jehoſophat*, therefore deſtroyed by the eldeſt, 2 *Chro.* 21. 2, 3, 4. Which is to be intended only of Succeſſion to Kingdoms. And as to private Families, both Equity and Policy is clean contrary, and that there ought not to be left above a Scripture double Portion to the eldeſt, where there are more than one; which is agreeable with the Examples of moſt Nations. (21.)

Primogeniture not to have the ſame Prerogative in Private Families as in Kingdoms.

(21.) The Certificate Introduces foreign Laws, and deſtroys *Magna Charta*, and the *Petition of Right*.

Certificates introduce forein Laws, and deſtroy the Laws of the Land.

The Foreign Laws it introduces on the Subjects as to Marriage, Filiation, and Succeſſion, and Religion, and Liberty, and Propriety all thereon depending, have been already mentioned, are the *Imperial*, and *French*, and of the Council of *Trent*. That by the Ceremony of a Prieſt in a Temple, the Adulterous Children of the Wife ſhall diſinherit the Natural Children of the Husband. The *Trent* Law, That all Marriages without that Ceremony ſhall be Null and void, and the Children Illegitimate. The *French* Foppery, That Natural Children ſhall not be Natural Children, Excommunication, Penance, Abſolution, Commutation-Money, twice puniſhing for one Offence, and many other Popiſh foreign Laws; all which deſtroy *Magna Charta*, and the *Petition of Right*, and are inconſiſtent with the Proteſtant Religion, Liberty and Propriety.

(22.) That the Certificate Epiſcopal Introducing ſuch foreign Laws incurr a *Præmunire* is proved before in the Caſe of Cardinal *Woolſey*. *Lib.* 1. *cap.* 5. 37, 38.

Præmunire incurred by Certificates.

(23.) The Certificate if it impoſes thoſe Foreign Imperial, Papal, *French* or *Trent* Laws of Marriage or Filiation on the Succeſſion of the Crown, or Certifie the King's eldeſt Son not to be Heir contrary to this Statute of 25 *E.* 3. incurrs the Penalty of High Treaſon.

High Treaſon incurred by Certificates.

(24.) The Certificate though utterly falſe and unjuſt, is neither Traverſable nor admits Probation to the Contrary, nor is under Appeal either of Fact or Law, nor is he bound to give any Reaſon of it; But,

Certificates not to be traverſed or diputed, nor under Appeal.

Sic volo ſic Jubeo, ſtat pro Ratione voluntas,

Of which ſee more at large, *Lib.* 2. *p.* 175, 176, 177, 178, 179.

(25.) The Certificate cauſeth all the miſchiefs, which are before proved to be cauſed by Compulſion to Marry by the Ceremony of a Prieſt in a Temple, *Lib.* 2. *cap.* 1. *p.* 192. *Uſq; ad* 253.

As to the Objections therefore, (1) That the Lady Mother was not Married. (2) That she was not a Wife according to the Law of God.

Though as before it had been sufficient for me to deny the Sequel, That because the Lady Mother was not a Queen, was not Married by the Common Prayer-Book; was not Married or a Wife according to the Law of God, therefore the eldest Son is not within the Statute, in regard, as before's shewn, no Question can arise on the Statute whether the King or the Lady his Companion, or the Marriage were Lawful, seeing as before's shewn, the Statute intends and makes it sufficient to be *De facto*: And it is so dangerous to leave Successions to Kingdoms to Disputes of the Sword whether Lawful or Unlawful: And sufficient is already said to answer all Objections relating to the Lady Mother: yet *Ex abundanti Cautelâ*, against all shadow as well as substance of Objections, I shall likewise shew, That she was not only *De Facto*, but *De Jure* Married, and a Wife according to the Law of God.

But preparatory to the same, I shall first shew:

What is Marriage and Matrimony De Facto *according to the Law of God.*

First therefore as to the Etymology of the word Marriage, the same is derived *à Marito & Maritus à Mari*, in English a Male, and signifies no more than the Natural Conjunction of the Male with the Female, whether the same be Lawful or Unlawful in the Act of Generation. The Effect of the same according to the words of Christ, is *Mat.* 19. 5. *They twain shall be one flesh.* And that is effected in Unlawful as well as a Lawful Marriage, as saith *Paul*, 1 Cor. 6. 16. *Know ye not that he which is joyn'd with an Harlot is one Body? for two* (saith he) *shall be one flesh.* And *Lipsius Antiq. Lection. Lib.* 2. *c.* 9. to the same effect saith, *Nubendi verbum Antiquum Antiquitùs inter ea fuit, quæ custos ille hortorum libentiùs quàm Virgines Vestæ usurparent. Inde* Festo *Nupta verba obscœna &* Petronio *Nuptias facere τὸ συγκάζειν.* And though some make the Derivation of the word *Nubo* more modest, and to be from *Nubes* a cloud, because the Brides face was clouded or shadowed with an yellow Veil or Attire: yet this Ceremony of clouding or veiling, and all

all other Ceremonies of Marriage were ſo appopriated by uſe to the Prieſts and Temples of the Garden God, That not only the word *Nubere*, but all other words ſignifying a Publick Ceremonial Marriage by a Prieſt in a Temple, were eſteem'd Obſcene.

Of this ſee more *Albericus Gentilis*, *De Nuptiis Lib.* 2. *c.* 3. *& Fermandius de Cordova in Didaſcaliâ Multiplici*, *c.* 39. *& Tertullianum ad Uxorem*, *Lib.* 1. *c.* 5. *& Adverſus Hermogenem c.* 1. And ſo doth M. *Selden De Jure Nat. & Gent. Lib.* 5. *c.* 4. *p.* 573. obſerve that amongſt the Latines *Nubere & Nuptiæ*, though ſometimes uſed for the Ceremony of Marriage; yet 'tis Originally uſed for Carnal Knowledge it ſelf, as in *Plautus*.

Meretrix. Læna.
M. At ſatiùs fuerat viro dare Nuptum potius. L. Etiam Hæc quidem Ecaſtor quotidiè viro nubit, nupſitque hodie; Nubet mox noctu, Nunquam ego hanc viduam cubere ſcivi; Nam ſi hæc non nubit lugubri mihi fame familia perit.

M. Better her you did marry. L. Marry true,
She did, and Day and Night doth marry new;
For if ſhe married not, my Family
With cruel hunger muſt ſoon ſtarve and die.

This is unlawful Marriage, and too many of ſuch Marriages there are.

Matrimony as is already before ſhewn, cannot be without a Mother, and a Mother cannot be without a Child; Matrimony therefore *de Facto* is Marriage whether lawful or unlawful conſummate by the Birth of a Child.

What is Marriage and Matrimony De Jure, *according to the Law of God.*

Having ſhewn what is not and what is Marriage and Matrimony *De Facto*, I ſhall ſhew next what is Marriage and Matrimony *De Jure*, according to the Law of God; that is to ſay, according to the Moral Law of God. For Marriages fatal,

ſuch of which the Poet ſpeaks *Fiunt Connubia fato*, are not the intended ſubject here. But as a farther Preparatory, before I come to prove this Theſis, I muſt likewiſe lay down as Fundamentals to proceed on; The Laws of Nations, *Gentiles* and *Jews*, and the Laws of God; as declar'd in the Scriptures of the Old Teſtament and the New.

Of three kinds of Marriages amongſt the Romans, *and three kinds amongſt the* Hebrews.

That Marriage by Carnal knowledge between Perſons not Prohibited, is Lawful without Ceremonies, not only by the Law of God, but by the Laws of all Nations, except ſuch as have faln under the ſlavery of Popes and Biſhops; and particularly by the *Roman* Law, as appears by *Godwyn*'s Antiquities, *Lib.* 2. *cap.* 20. *p.* 69. Who ſays amongſt the *Romans* Marriage was made, and a Woman became a Man's Lawful Wife three manner of ways, 1. *Uſu.* 2. *Confarriatione.* 3. *Coemptione.* The firſt, by Uſe or Cuſtomary Copulation for the time of one year. The ſecond, by Confarriation or eating a piece of Barly Cake between them before a Pontiff or chief Biſhop. The third, by buying one another with a piece of Money. The two later are Fictions of Marriage and Fopperies: But as to the firſt, which is a true and Lawful Marriage, if between Perſons not Prohibited, it was held by the *Roman* Lawyers, if a Woman lived with a Man at Bed and Board the ſpace of a year, ſhe being not abſent from him three Nights in the year; this was ſo ſtrong a Marriage that Propriety was got in ſuch a Woman by Preſcription; if one year were a Preſcription without a Prieſt or Temple, and without Confarriation or Emption, much more muſt many years, yea the whole life, a Woman till ſhe died. The Law of the *Hebrews* was ſtronger, for with the *Romans* there needed many Copulations, but amongſt the *Hebrews* only one was a perfect Marriage; as appears by *Maimonides*, who ſaith, The *Hebrews* had likewiſe three ways of Marriage, or making a Woman their Lawful Wife, *Coemptione, Inſtrumentis, Copulatione*, 1. Buying with a piece of Money. 2. Drawing and ſigning Marriage Writings between them. 3. Copulation. Either of which ſingly, and without any Ceremony was eſteem'd amongſt them between perſons,

No Prieſt neceſſary in any kind of *Ebrew* Marriage.

persons not Prohibited, a Lawful and valid Marriage. And *Selden De jure Nat. & Gent. Lib.* 5. *c.* 4. *p.* 572. Translates out of the same *Maimonides*, That *Ante Legem Datam (Mosaicam) si fœmina in publico occurrisset vir, & tam hæc quàm ille in Matrimonium consensisset, eam is Domum deducebat, & remotis Arbitris cum eâ concumbebat, atq; ita ei fiebat ea Uxor, seu fœmina ejus fiebat.* Before the Law given (saith he) to *Moses*, if a Man had met a Woman in Publick, and both he and she agreed to Marry, he lead her to his House, and when no witnesses saw them he lay with her in private, and so she was thereby made his Wife, or which is the same, his Woman. And that this amongst the *Ebrews* was a Lawful Marriage without any witnesses or Ceremony as well after as before, the Law of *Moses* appears by the Scripture it self, and the very Books of *Moses*: Of which take the Texts in order as follows:

Gen. c. 2. 18. *And the Lord God said, It is not good that the man should be alone, I will make him an Help meet for him.*

Gen. 1. 27. *So God created man in his own Image, in the Image of God created he him, Male and Female created he them. And God blessed them, and said unto them, Be fruitful, and multiply and replenish the Earth.*

Gen. 2. 24. *A man shall leave his Father and Mother, and cleave unto his Female, and they two shall be one flesh.*

Gen. 4. 1. *And Adam knew Eve his Female, and she Conceived and bare Cain, and said, I have gotten a man from the Lord.*

Gen. cap. 5. 1. *This is the Book of the Generations of Adam. In the day that God created man, In the likeness of God created he him. Male and Female created he them and blessed them, and called their name Adam in the day that they were created. And Adam lived an hundred and thirty years, and begat a Son in his own likeness after his name, and called his name Seth.*

Gen. c. 6. 1. *And it came to pass when men began to multiply on the face of the Earth, and Daughters were born unto them, That the sons of God saw the daughters of men, That they were fair, and they took them females of all which they chose.* And Vers. 4. *There were Giants in the Earth in those days, and also after that when the sons of God came in unto the daughters of men and they bare Children unto them, the same became mighty men which were of old, men of Renown*; Of this *Vid. Lib.* 2. 150.

Gen.

Gen. 16. 3. *And Sarai Abrams Wife took Hagar her maid the Egyptian, after Abram had dwelt Ten years in the Land of Canaan and gave her to her Husband Abram to be his Wife, and he went in unto Hagar, and she Conceived.* And Verſ. 15. *And Hagar bare Abram a Son, and Abram called his Son's name which Hagar bare him, Iſmael,*

Gen. 38. 8. *Go in to thy Brother's Wife, and Marry her.*

Exod. 21. 3. *If he were married, his Wife muſt go out with him.*

Numb. 12. 1. *Becauſe of the Ethiopian woman he had Married.*

1 Chron. 2. 21. *And afterward Hezron went in to the daughter of Machir the Father of Gilead, whom he married when he was Threeſcore years old, and ſhe bare him Shegub.*

Iſa. 62. 5. *For as a young man marries a Virgin; ſo ſhall thy children marry thee.*

Gen. 20. 3. As Tranſlated in Latin by Mr. *Selden de Jur. Nat. & Gent. p. 573. God came to Abimilech in a dream by night, and ſaid unto him, Behold thou ſhalt die becauſe of the female whom thou haſt taken, for her male hath lain with her.*

Ex. 22. 16. *If a man intice a maid that is not betrothed, and lie with her, he ſhall ſurely endow her to be his Wife, if her Father utterly refuſe to give her to him, he ſhall pay money, according to the Dowry of Virgins.*

Deut. 22. 28. *If a man find a Damſel that is a Virgin which is not betrothed, and lay hold on her and lye with her, and they be found; Then the man that lay with her ſhall give unto thee Damſels Father fifty ſhekels of Silver, and ſhe ſhall be his Wife becauſe he hath humbled her; he may not put her away all his days.*

Deut. 21. 13. Concerning the Marriage of a Captive Woman taken in Wars, it is ſaid, *Thou ſhalt go in unto her and be her Husband, and ſhe ſhall be thy Wife.*

Mat. 19. 3. *The Phariſees alſo came unto him tempting him, and ſaying unto him, Is it lawful for a man to put away his Wife for every cauſe? And he anſwered and ſaid unto them, Have ye not read that he which made them at the beginning, made them Male and Female; and ſaid, For this cauſe ſhall a man leave Father and Mother, and ſhall cleave to his Female, and they twain ſhall be one fleſh. Wherefore they are no more twain but one fleſh. What*

therefore

therefore God hath joyned together, let no man put asunder. They say unto him, Why did Moses then command to give a Writing of Divorcement, and put her away? He saith to them, Moses because of the hardness of your hearts suffered you to put away your Wives; but from the beginning it was not so.

Deut. 24. 4. *Her former Husband which sent her away, may not take her again to be his Wife after she is defiled.*

1 Cor. 7. 28. *If thou marry thou hast not sinned, and if a Virgin marry, she hath not sinned.*

1 Tim. c. 4. 1. *Now the Spirit speaketh expressly, That in the later times some shall depart from the Faith, Giving heed to seducing spirits and Doctrines of Devils speaking lies in Hypocrisie, having their Consciences seared with an hot Iron, forbidding to marry, and commanding to abstain from meats.*

Mat. 19. 9. According to the Original Greek is, *Whosoever shall put away his Woman, except it be for carnal Uncleanness, and shall marry another, committeth Adultery.*

1 Cor. c. 7. 2. *To avoid Fornication, Let every man have his own woman, and every woman have her own man: Let the man render unto the woman Due Benevolence, and likewise the woman to the man. The woman hath not Power over her own Body but the man, and likewise also the man hath not Power of his own Body but the woman.* And Vers. 9. *It is better to marry than to burn.*

1 Tim. 2. 15. *She shall be saved in Childbearing, if she continues in Faith, and Charity, and Holiness with Sobriety.*

1 Tim. 5. 14. *I will therefore, That the younger woman marry, bear Children.*

On these Foundations therefore premised, Of Acts of Parliaments, Laws of Nations, and above all, the Moral Law of God in Scriptures and in Nature, if the Lady Companion in this Statute as is said, *Cant.* 8. 9. *Be a wall, we will build upon her a Palace of Silver,* and Prove,

That Carnal knowledge between persons not Prohibited by the Moral Law and Chastity and Childbirth of the Woman without Contract, Banns, Licence, Witnesses, Priests, Temples, or any other Ceremony is a Marriage and Matrimony De Facto & De Jure *Lawful, Holy and Indissoluble, according to the Law of God.* First,

First, therefore granting there can be no Marriage or Matrimony *De Jure*, where there's none *De Facto* (for a *Modus Entis* cannot be without an *Ens*, an Accessary without a Principal, nor an Accident without a Substance) It is proved on what hath already been shewn, That here is a Marriage and a Matrimony *De Facto* by the Birth of a Child.

Secondly, That such Marriage and Matrimony between Persons not prohibited by the Moral Law are Lawful, I prove,

(1) *The Lawfulness of such Marriage and Matrimony in Respect no Prohibition by the Law of God of the same though without Ceremony.*

(1.) Because all Marriage and Matrimony is Lawful, which is not Prohibited by the Moral Law of God; but these are not Prohibited by the Moral Law of God, Therefore they are Lawful. The Major is proved 1 *Tim.* 4. 1. Because all Humane Laws forbidding Marriages or Meats which are not forbidden by the Moral Law of God, are declared to come from the Devil, and to be the Doctrine of Devils.

Prohibition of Marriage without Ceremony not Prohibited by the Law of God, is the Doctrine of Devils.

And accordingly all Papal and Episcopal Laws, all Ecclesiastical Canon and Civil Laws, all Decrees of Councils of *Trent*, or any other Councils or Synods forbidding to Marry in any Circumstance or Ceremony not forbidden by the Law of God, came from the Devil, and are the Doctrine of Devils; which see proved, *Lib.* 1. *p.* 52. And that the final cause of such Prohibitions of Marriage without Pontifical Ceremonies, are only accumulation of Fees, and Ambition of Pontiffs and Bishops, *Vid. Lib.* 1. *p.* 55, 56, 57.

The final Cause of such Prohibitions, is only filthy Lucre of the Priests.

(2.) All Marriage and Matrimony is Lawful which is not a Sin or a Transgression; but such Marriage and Matrimony which are not Prohibited by the Law of God are no Sin or Transgression; Therefore they are Lawful. The Minor is proved 1 *Joh.* 3. 4. *Sin is the Transgression of the Law.* And *Rom.* 4. 15. *Where no Law is, there is no Transgression.*

Where no Law, no Transgression.

(3.) What is declared no Sin by Scripture is lawful; but Marriage between persons not Prohibited, is declared no Sin by Scripture, therefore Lawful. The Minor is proved 1 *Cor.* 7. 28. *If thou marry, thou hast not sinned; and if a Virgin marry, she hath not sinned.*

(4.) What

(4.) What is commanded by Scripture is Lawful, and not Prohibited; But Marriage and Matrimony is commanded by Scripture to young Women, therefore Lawful. The Minor is proved, 1 *Tim.* 5. 14. *I will therefore the young women marry, bear Children.*

(5.) What is in Scripture commanded and bleſſed (between perſons not Prohibited) is Lawful and not Prohibited: But Marriage and Matrimony by Carnal knowledge and multiplying Mankind is commanded and bleſſed in Scripture; Therefore Lawful. The Minor is proved, *Gen.* 1. 27. *Male and Female created he them. And God bleſſed them and ſaid unto them, Increaſe and Multiply and repleniſh the earth.*

(6.) What is rewarded in Scripture in Perſons not Prohibited is Lawful and not Prohibited; but Marriage and Matrimony between Perſons not Prohibited is rewarded; Therefore Lawful. The Minor is proved, 1 *Tim.* 2. 15. *She ſhall be ſaved in Childbearing; if ſhe continue in Faith, and Charity, and Holineſs with Sobriety.*

The Lawfulneſs of Marriage which is not Prohibited by the Law of God is acknowledged by the Church of England; *Which I prove thus:*

All Marriage acknowledged Lawful by the 39 Articles, is acknowledged Lawful by the Church of *England*; but the preſent Marriage (whether there are any Witneſſes alive or no to prove it Ceremonial) is acknowledged Lawful by the 39 Articles; Therefore the preſent Marriage is acknowledged Lawful by the Church of *England.*

The Minor is proved thus,

All Marriage not Prohibited by the Law of God, is acknowledged lawful by the 39 Articles: But the preſent Marriage is not Prohibited by the Law of God: Therefore the preſent Marriage is acknowledged Lawful by the 39 Articles.

Though it is no ways neceſſary amongſt ſo many clear and unanſwerable Precepts and Examples of Scripture it ſelf as are here cited eſtabliſhing the Lawfulneſs of the preſent Marriage, to add the Humane Authority of the Church of *England*, or any other National Church, yet in regard the Biſhops in their Practice and Certificates deny that Doctrine of the Lawfulneſs of

Marriage, which they themſelves acknowledge and pretend to eſtabliſh in their own Book of Articles; To confute therefore thoſe Certificates of theirs out of their own mouths, I have here inſerted their own 32d Article, without which they are not able to ſecure the Lawfulneſs of their own Marriages, and Legitimation of their own Children againſt *Papiſts*, *Oſſens*, *Gnoſticks*, *Nicholaitans*, *Hermogenians*, and other *Hereticks*, but only on this Principle, That all Marriages not Prohibited by the Law of God are Lawful; as appears by the Article it ſelf, made *Anno Dom.* 1562. in the Fourth year of the Reign of Queen *Elizabeth*, *Roger*'s Articles, *p.* 185, 187, 188. where is mentioned,

(1.) That Biſhops, Prieſts, and Deacons are not Prohibited by God's Law to Marry, therefore it is Lawful for them to Marry.

(2.) That it is Lawful for them and all other Chriſtian men to marry at their own diſcretion, as they ſhall judge the ſame to ſerve beſt to Godlineſs.

Whence will likewiſe follow, That the Doctrine of the Church of *England*, and the Ceremonies of the Church of *England*, are two diſtinct things, and to uſe the words of the Article, As every Chriſtian may Marry or not Marry according to his Diſcretion, where not Prohibited by the Law of God; ſo he may Marry with or without Ceremonies where not Prohibited by the ſame Law of God: As *Adam* might have eaten of all the Fruits in *Eden*, with Ceremony or without Ceremony, according to his Diſcretion where not Prohibited by the Law of God. And I think no man will queſtion this 32d Article not to be according to the Doctrine of the Church of *England*. And the ſame Article touching Marriage, is known to be the Doctrine of the *Helvetian*, *Bohemian*, *Saxon*, *Suevian*, and all the Reformed Churches. If therefore the Tree is Holy, the Fruit is Holy; if the Marriage is Lawful, the Son is Lawful. I have therefore proved him Lawful by Three unanſwerable Laws. (1) The Act of Parliament of Treaſons. (2) The Law of the Church of *England*. (3) The eternal and immutable Law of God in the Scriptures.

(2.) The

(2.) The Lawfulneſs of ſuch Marriage and Matrimony without Ceremony, appears in Reſpect of no Command of any Ceremony by the Law of God.

(1.) There's no Commandment of any Ceremony in Marriage in the whole Scriptures, either Old Teſtament or New, of *Moſes* or Chriſt, of Prophets or Apoſtles: but the ſame (as hath been already ſhewn) have been invented by Prieſts of *Priapus*, *Venus*, *Juno*, *Diana*, Popes and Biſhops either for Luſt, Covetouſneſs or Ambition.

No Sin where no breach of a Commandment of God.

(2.) The Scripture makes nothing unlawful, nor Sin, but what is a breach of the Commandment of God, where there's no Commandment therefore of God of joyning Ceremony with Marriage or Matrimony, Marriage and Matrimony between Perſons not Prohibited is lawful without them. This is proved *Luk.* 18. 18. *And a certain Ruler asked him, ſaying, Good Maſter, What ſhall I do to inherit eternal life?* The anſwer is *verſ.* 20. *Thou knoweſt the Commandments.* And *Rom.* 7. 8. *Sin taking occaſion by the Commandment wrought in me all manner of Concupiſcence, for without the Law Sin was dead.* By which appears that where there's no Commandment, there's no occaſion for a *Nitimur in Vetitum* to kindle Concupiſcence to Sin, nor much leſs can there be Sin it ſelf: For where there's no Prohibition nor Command, there's no Law, and where no Law (as is already ſaid) there's no Tranſgreſſion.

Salvation by no Legiſlator, Judge, or Law, but of God.

(3.) The Scripture teacheth, That men can be ſaved by no Law but the Law of God, nor by any Legiſlator or Judge but God; which is proved *Jam.* 4. 12. *There's one Lawgiver who is able to ſave and to deſtroy, who art thou that judgeſt thy Brother?* And *verſ.* 11. *He that ſpeaketh evil of his Brother, and judgeth his Brother, ſpeaketh evil of the Law and judgeth the Law, but if thou judge the Law, thou art not a Doer of the Law, but a Judge.* And *Iſa.* 33. 22. *The Lord is our Judge, the Lord is our Lawgiver.* If therefore the Law of God is the only Law by which Men and Women are ſaved in Marriage, Matrimony and Child-bearing, as well as all other Acts of Humane life; and God is the only Legiſlator and Judge of them; then ought their Lawfulneſs without Ceremony to be judged only according to the Law of God, and where there's no Law of God Prohibiting Marriage without Ceremony, nor Commanding it with Ceremony, the

Law of God declares it Lawful without Ceremony; becauſe nothing can be Lawful or Unlawful but in reference to the Commandments and Laws of God.

Ceremonies rejected by the Scripture.

(4.) The Scripture rejecteth all Ceremonies done without Commandment from God, *Iſa.* 1. 12. *When ye come to appear before me who hath required this at your hands to tread my Courts; Bring no more vain Oblations, Incenſe is an abomination unto me, &c.*

Ceremonies falſe Tranſlated Ordinances.

(5.) The Scripture teacheth all Rites and Ceremonies to have been only Temporary till a Time of Reformation, and to be aboliſhed by Chriſt, as *Heb.* 9. 1. The firſt Covenant had Ceremonies. For the Original word δικαιώματα, ought to be Tranſlated *Rites* or *Ceremonies*, and not *Ordinances* or *Laws*, as the Latin Tranſlation is, and appears to be intended and is ſo Expounded by the Text it ſelf, *Verſ.* 2, 3, 4. which names a Tabernacle, Candleſtick, Table and Shewbread, Vayle, Golden Cenſer, and Ark overlaid with Gold. And *v.* 9. *Gifts and Sacrifices which could not make him that did the ſervice perfect as pertaining to Conſcience.* And *verſ.* 10. *Meats and Drinks, and divers waſhings and carnal Ceremonies impoſed on them until the time of Reformation.* All which are an Enumeration of what we call in *Engliſh* and ſhould have been Tranſlated, *Ceremonies*, and not *Ordinances* or *Laws*. As likewiſe *Colo.* 2. 14. ought to have been Tranſlated, *Blotting out the hand-writing of Ceremonies that was againſt, and which was contrary to us: And took it out of the way, nailing it to his Croſs.* And ought not to have been Tranſlated *Ordinances* or *Laws*. For the Original words uſed in this Text, are χειρόγραφον τοῖς δόγμασιν. The word *Dogma* is a Derivative from ΔΟΚΕΩ, which ſignifies to *Teach*: which word *Teach* gives not Authority to be a Legiſlator, or to Command or give Ordinances or Laws; as *Ex.* 24. 12. *And the Lord ſaid unto Moſes, Come up to me into the Mount, and be there, and I will give thee Tables of Stone, and a Law and Commandments which I have written that thou mayeſt teach them.* Here *Moſes* hath no Authority to be a Legiſlator, nor to make a Law, or Commandments, or Ordinances, but only to teach thoſe made by God. In like manner, *Mat.* 28. 19. Chriſt ſaith to his Diſciples, *Go therefore and teach all Nations.* And *verſ.* 20. *Teaching them to obſerve all things whatſoever I have commanded you.* So neither doth here the Authority of teach-

Miſſion to teach, is no Miſſion to make Ordinances.

ing

ing, make the Diſciples either Legiſlators or Judges, nor give them Power to give Laws, Ordinances or Commandments to the Nations; but only to teach them the Commandments which Chriſt gave to the Teachers themſelves.

If therefore the Original word *Doceo* gives no pretence to Tranſlate what ſignifies only Teaching to be making Ordinances, much leſs doth the Derivative word *Dogma*, which according to *Iſidore*, *Derivatur à Putando* (i. e.) *hoc puto eſſe verum, hoc puto eſſe bonum*, is derived from thinking, that is to ſay, I think this to be true, I think this to be good. And is the Thought or Opinion of Doctors on a Law or Ordinance, much leſs pretence, I ſay, doth ſuch Derivative give to call Thoughts and Opinions the Laws and Ordinances themſelves: Theſe Thoughts and Opinions then ought not to have been Tranſlated Ordinances but Ceremonies, becauſe Ceremonies have only Thoughts and Opinions of men, and no Law of God for them. And ſo doth the Text expound it ſelf, that it intendeth not Ordinances but Ceremonies, as *ver.* 20. Wherefore if ye be dead with Chriſt from the Rudiments of the world, why as though living in the world are ye ſubjects to Ceremonies (Touch not, taſte not, handle not, which all are to periſh with the uſing) after the Commandments and Doctrines of Men? which things have in deed a ſhew of Wiſdom in Will-worſhip.

So the Pope is but a Thinker of all his Ceremonies of Marriage. And all his Ceremonies of that and the reſt are but Thinkings (as the Bell tinketh, ſo the Fool thinketh) and hath taken ſo many firſt and ſecond Thoughts on the tinking of this Silver Bell of his Profit, that he knows that if once the Truth of the Doctrine ſhould be ſpread and believed, That Chriſt hath aboliſhed all Ceremonies, it would ruin him and all other Popes who are Maſters of them.

Ceremonies are Will-worſhip, and aboliſhed by Chriſt.

(6.) It being made the Expreſs Command and Ordinance of God, *Be fruitful and multiply and repleniſh the Earth.* And 1*Tim.*5. 14. *That the younger women marry and bear Children*; if the adding, or diminiſhing, or limiting of this Law or Commandment of God by preſcribing to them Papal or Epiſcopal Ceremonies ſhould make them unlawful; then firſt would it be in the power of Popes and Biſhops to make God's Commands things indifferent, which they might change or null, or they might

The Commandments of God of Marriage cannot be limited by or to the Ceremonies of men, becauſe Marriage where commanded by God is not a thing indifferent.

might ſet all Carnal Copulation and Childbirth to Sale, by impoſing ſuch Ceremonies as none ſhall be able to paſs without firſt giving notice to the Prieſt, and paying him what Fees he pleaſeth, of which ſee more, *Lib.* 2. *p.* 96, 97. Secondly, this preſcribing or Compulſion to Ceremonies in Marriage puniſheth Lawfuld Childbirth in Mothers, and cauſeth infinite Murders of Children, which *Vid.* proved at large, *Lib.* 2.*p.*234. to 240. and amount in effect to the wicked Law of *Pharoah*, which was ſo far from obliging the Conſcience, that *Moſes* his Parents are commendedfor not obeying the ſame,as appears *Heb.* 11. 23. where it is ſaid, *By faith Moſes when he was born was hid three months of his Parents, becauſe they ſaw he was a proper Child, and they not afraid of the Kings Commandment*. Therefore Marriage is Lawful without them. Thirdly, This Preſcribing or Compulſion of Ceremonies by men on Marriage and Matrimony commanded by the Moral Law of God, deſtroys and makes the ſame of no Effect, as appears *Mark* 7. 13. For there the word παράδοσις which is Tranſlated Tradition,(making the Word of God of no effect by your Traditions)ought to have been Tranſlated,making the Word of God of no effect by your Ceremony. For the word *Doſis* ſingle, ſignifies a Giving, Delivery or Tradition, and *Paradoſis* a *Præter* or Contradiction to the Law of God, as παρὰ νόμον is *Contra Legem*, and παρὰ φύσιν is *Contra Naturam*. Impoſing or Compulſion of Ceremonies of Marriage on the Conſcience, being a thing *Præter et Contra Legem Dei*. And that the word *Paradoſis* is intended here to be Ceremony, appears by the Text it ſelf, *verſ.* 8. *Laying aſide the Commandments of God, ye hold the Ceremonies of men, as the Baptiſm of pots and cups*; and *ver.* 4. as beforementioned of *Brazen veſſels and Tables*, all which no man doubts to be Ceremonies of Men, and not Laws of God; which though uſed to an Intention of Religion or Juſtice, yet cannot make that Religious or Juſt which is not ſo by the Law of God: The Compulſion therefore to the Ceremonies making the Law of God of Marriage to be of no effect;Marriage muſt be Lawful without them. Fourthly, Compulſion or Prohibition of Ceremonies in Religion, Juſtice, Marriage, and Matrimony, deſtroys the worſhip in Spirit and truth of God, and Truth, Nature,and Equity towards men; therefore Religion, Juſtice, Marriage, and Matrimony are all Lawful without Ceremonies. As to Ceremonies of

Compulſion to Ceremonies makes the Law of God of Marriage of no effect.

Ceremonies falſe Tranſlated Traditions

Compulſion to Ceremonies deſtroys Marriage, Religion, Juſtice, Truth, Equity, Natural Affection.

of Worſhip by a Prieſt in a Temple, See *Lib.* 2. *p.* 210, 211. As to Truth deſtroyed by them, See *Lib.* 2. *p.* 186. to 189. and *p.* 288. to 305. As to Nature deſtroyed, See *Lib.* 1. 73. to 83. and *Lib.* 2. *p.* 154, 155, 156. As to Equity deſtroyed, See *Lib.* 2. *p.* 312. to 329. And hence is to be further noted, That ſeeing the Law of God doth neither command any Ceremonies of Marriage, nor Prohibit all: No Marriage ought to be Judged unlawful which doth omit ſuch Ceremonies not Commanded, or doth uſe ſuch Ceremonies as are not Prohibited; but every perſon ought to be left to his own Liberty of Conſcience to omit ſuch Ceremonies not Commanded, or to uſe ſuch as are not Prohibited, as ſuits moſt with his Conſcience and Convenience; the ſtate whereof is beſt known to every man's ſelf.

Prohibition of Ceremonies not Prohibited by God doth the ſame.

Concerning the Liberty of which private manner of Marriage without Ceremonies or Witneſſes; See *Lib.* 1. 101. to 109. And concerning Ceremonies and Circumſtances, and the Difference between them ſee more, *Lib.* 2. *p.* 189. to 192.

7. Ceremonies anſwer not the Lawful and Neceſſary ends for which God inſtituted Marriage by Carnal knowledge between Perſons not Prohibited, Therefore Marriage by Carnal knowledge is lawful without them: As the Ends for which God inſtituted Marriage by Carnal knowledge was, (1) *Gen. c.* 2. 18. *It is not good for man to be alone, I will make him a help meet for him.* (2) *Gen. cap.* 1. 27. *Be fruitful and multiply and repleniſh the earth.* (3) 1 *Cor. c.* 7. 2. *To avoid Fornication, Let every man have his own woman, and every woman her own man:* What do Ceremonies (were the whole heap of them uſed through the whole world) Coacervated on two Perſons ſignifie to produce any of theſe Effects?

Ceremonies anſwer not the Ends of Marriage.

(3.) The Lawfulneſs of ſuch Marriage by Carnal knowledge without Ceremony appears by Expreſs Command of Scripture.

Where the Man is commanded by the Scripture to acknowledge for his Wife, whatſoever Woman not Prohibited he Lies with, though without Ceremony, it is Lawful for ſuch Woman to be his Wife, and the Marriage is Lawful without Ceremony; But the Man is commanded by Scripture to acknowledge for his Wife whatſoever Woman not Prohibited he lies with,

Carnal Knowledge without Ceremony commanded to be acknowledged Marriage by expreſs Scripture.

with, though without Ceremonies; as *Ex.* 22. 16. It is said, *If a man entice a maid which is not betrothed and lie with her, he shall surely endow her to be his wife: If her Father utterly refuse to give her to him, he shall pay money, according to the Dowry of Virgins.* And *Deut.* 22. 28. It is said, *If a man find a Damsel that is a Virgin which is not betrothed, and lay hold on her, and lie with her, and they be found; Then the man that lay with her shall give unto the Damsels Father fifty Shekels of Silver, and she shall be his wife, because he hath humbled her; he may not put her away all his days.* The same Law was at *Athens*, only instead of the Fifty Shekels, the Man was to pay the Virgins Father a Thousand Drachms, and Marry her besides. Here are Lawful Marriages on the Virgins part yet no Ceremony. And as for any Traditions or late Customs or Constitutions of Rabbi's contrary to these express Laws of *Moses* and Scripture they are not to be valued. The express Command being *Deut.* 12. 32. *What thing soever I command you, observe to do it, Thou shalt not add thereto nor Diminish from it.* And as is said, *Jer.* 10. 3. *The Customes of the People are vain.* And the observing the Commandments of Men against the Law of God, being condemned by Christ, *Mark* 7. 9. *Ye reject the Commandments of God that ye may keep your own Traditions.*

Such Command of God not a thing indifferent to be added to or diminished from, by any Laws of Men.

4. *The Lawfulness of such Marriage by Carnal Knowledge between Persons not Prohibited without any Ceremony is acknowledged by Episcopal Translations themselves of Scriptures.*

Carnal Knowledge without Ceremony between Persons not Prohibited, acknowledged Marriage by Episcopal Translation of it so in the whole Scripture.

As *Gen.* 38. 8. It is said, *Go in to thy Brother's wife and Marry her:* Where the Hebrew word *Bo* signifies *Ingredere ad*; *Go to bed to thy Brother's Wife*; and 25 *Deut.* 5. The word is *Jabo* and *Jabbein*, derived from the same Root, signifies *Lye with her*; which they have Translated *Marry her.* And *Exod.* 21. 3. If he were Married his Wife must go out with him: Where the Hebrew word *Bagnal* signifies one who lay with the Woman, and by a Metaphor Possessor, or *Dominus Mulieris*, which can be no other way but by lying with her. And this they have Translated, *Married.* Again, *Isa.* 62. 5. It is said, *As a young man marrieth a Virgin:* there is the word *Bagnal*, which signifies to *Lye with a Woman*, which they Translate *Marrieth.* And *Deut.* 21. 13. It is said, *Thou shalt go in unto her and be her Husband,*

Husband, and she shall be thy Wife. In which there is both *Bo* and *Bagnal* in the signification before mentioned, which they have Translated, *Go in unto her and be her Husband.* And many other places in the Scripture they have Translated *Lying with a woman* though without Ceremony for Marriage; which they would have thought lawful: unless therefore Episcopal Translators will acknowledge that they have falsly Translated all the said places of Scripture, They cannot but likewise acknowledge, That the first Lying with a Woman not Prohibited by the Law of God, though without Ceremony, is Lawful Marriage according to the Law of God, and their own Translation.

The first Carnal knowledge of a Woman not Prohibited, is Lawful Marriage of her.

(5.) *The Lawfulness of such Marriage by Carnal knowledge without Ceremony between Persons not Prohibited, appears by Divers other Examples of Scripture.*

Gen. 20. 3. As it is Translated by Mr. *Selden De Jur. Nat. & Gent. p.* 573. *But God came to Abimelech in a dream by Night, and said unto him, Behold thou shalt die for the woman which thou hast taken: for her man hath lain with her.* And he accordingly expoundeth the same according to the *Talmud Glosse: Non scriptum est, Nam uxor viri seu viri alterius fœmina, sed verba illa, Ecce morieris, pronunciantur eò quòd Maritus concubuerit cum eâ, & non Ratione Sponsaliorum aut Deductionis in Thalamum.* It is not written, *For she is a mans Wife*, or *she is the Woman of another man*; but those words, *Behold thou shalt die*, are therefore pronounced because that her Man had lain with her, and not by reason of any Contract or Espousal or Ceremonial Conthalamation. Whence it is manifest, that contrary to the Papal and Episcopal Law by the Law of God and the Scripture, *Concubitus non Consensus facit Matrimonium*, Carnal knowledge and not Contract, between Persons not Prohibited, make lawful Marriage, for *Ratio Legis est Anima Legis.* The reason given why she was another man's Wife, is because he had lain with her: of which may be seen more at large, *Lib.* 1. *p.* 83. to 87. And though as to the Practique, *Selden* in the same place makes a Distinction between the manner of the Marriage of the *Hebrews* before *Moses* his Law and After, and *p.* 574. useth these words, *Ebræis autem ipsis Ex jure suo sario & civili Con-*

ſenſus ſolus citra omnem Controverſiam ſufficiebat. That after the Law of *Moſes* given amongſt the *Hebrews*, without diſpute their Law both Sacred and Civil was; That only Conſent without Carnal knowledge was a ſufficient Marriage; which is very ſtrange ſhould be affirmed by a Man ſo Learned. For though no man doubts their Civil Laws and Cuſtoms called Coemptions and Covenants in Writing, Marriages, according to the vulgar Language; yet were they but Contracts and no Marriage; neither doth or can Mr. *Selden*, or any other, inſtance one Sacred Law they had to do this, or to make buying and ſelling, or Covenants in writing Marriage, without Carnal knowledge. If he intends by Sacred, either the Law of God, or the Law of *Moſes*, or the Law of Scripture: What do the Cuſtoms therefore of People, or of Rabbies, or of a Sanedrim ſignifie any more than the Canons of Popes againſt any of theſe? It being ſo fully already proved, *Lib.* 1. *p.* 2. *c.* 1. That Marriage, Filiation, Aliment and Succeſſion, ought not to be judged by the very Laws of *Moſes* himſelf, or the Cuſtoms of the *Jews*; but only by the Moral Law of God.

No Law of God or of *Moſes*, for any *Jewiſh* Ceremonies in their Marriages.

Exod. 21. 7. It is ſaid, *If a man ſell his daughter to be a maid ſervant*, ver. 8. *If ſhe pleaſes not her Maſter who hath betrothed her to himſelf: then ſhall he let her be redeemed to ſell her unto a ſtrange Nation, he ſhall have no power ſeeing he hath dealt deceitfully with her.* Ver. 10. *If he take him another wife, her food, her rayment, and her Duty of Marriage ſhall he not diminiſh.* On which Scripture may be obſerved; (1) Here is one buys a Maid of her Father with intention to lie with her. (2) She is very poor, and worſe than a beggar; for ſhe is a ſlave bought with his Money: whereas if ſhe were a Beggar and free, ſhe could ſet what price ſhe pleaſed on Sale of her Liberty, and diſpoſe it to what uſe ſhe pleas'd. (3) Coemption or Buying was amongſt the *Jews* a betrothing or eſpouſing; eſpecially if beſides the price to the Father they gave the Woman a piece of Money likewiſe, though but a farthing; yea, though nothing was given the Woman her ſelf; but only the Price of Money, or any thing elſe valuable was given to the Father. This was a ſufficient betrothing and Eſpouſal, as appears by the words of *David*, 2 *Sam.* 3. 14. *And David ſent meſſengers unto Iſhboſheth Saul's Son, ſaying, Deliver me my wife Michol, which I eſpouſed to me for an hundred foreskins of the Philiſtins.* (4) That amongſt the

the *Jews* no Maid who was Poor and bought and taken by King or Subject to be lain with, needed to be Espoused with any Ceremony or Marriage-Covenants, or to have any Dower or Jointure setled upon her; but he who bought or took her might lawfully by the *Jewish* Law and Custom lye with her, without any of these; and the same was lawful Marriage. (5) That this Buyer having lain with her, desires for change to turn her off, and the same is called dealing Treacherously with her; which shews she is a lawful Wife without any Ceremony. (6) It is said, *If he takes him another wife; her food, her rayment, and her Duty of Marriage shall he not diminish.* By which appears, That this poor Maid and Slave, whom he, whether King or Subject hath once lain with, is his true and lawful Wife without any Ceremony. For the Buyer or Taker cannot be said to take another Wife, unless the first was his Wife before; neither can he be said to owe a Marriage-Duty to any Woman, unless who was lawfully Married, and who was his lawful Wife, and so she is cleerly without any Ceremony. For neither amongst the *Romans*, *Jews*, and *Turks*, or any other Nations (not under Popes or Bishops are Ceremonies and Solemnities used in the Marriages of Slaves, but only of Free-women; nor can there be Covenants of Marriage, Dowers or Jointures given to Women who are Slaves, (where the Law of Slavery is not abolished, as it is amongst the greatest part of Christians) because a Woman who is a Slave is neither capable of the Right of Propriety or Action against her Husband, being her Lord and Master who bought her; yet is she capable to be his true and lawful Wife, and of the Right of Food, Rayment and Duty of Marriage from him.

Amongst the *Jews* Carnal knowledge of a Maid that was poor, by King or Subject, was lawful Marriage, without Espousal, Contract, or other Ceremony.

Gen. 16. 3. It is said, *And Sarai Abrams wife took Hagar her maid the Egyptian after Abram had dwelt ten years in the Land of Canaan, and gave her to her Husband Abram to be his Wife. And he went in unto Hagar, and she conceived.* And Ver. 15. *Hagar bare Abram a Son, and Abram call'd his Sons name Ismael which Hagar bare him.* On which Text may likewise be observed,

(1.) That *Hagar* was *Abram*'s Slave or Bondwoman.

(2.) That he got a Son by her without any Ceremonies and without Marriage-Covenants, Dower, or Jointure. For *Cap.* 21. 14. He casts her out, and his Son with no more than a Wallet of Bread and a Bottle of Water on her shoulder, to wander in the wilderness of *Bersheba*.

(3.) That notwithstanding here was no Ceremony; yea, though there was what was worse, this Course Complement of *Abram*'s casting her out of Doors; yet by his Lying with her and getting her with Child, the Scripture calls her his Wife; and many other places of Scripture there are, where the only Lying with a Virgin or Woman not Prohibited, whether bond or free, lawfully entitles her to be his Wife, and the same without any Ceremony is a lawful Marriage.

(6.) *The Holiness of such Marriage by Carnal knowledge without Ceremonies appears after.*

What kind of Ceremonies Prophane Marriage.

Ceremonies Prophane Marriage: (1.) By the unnecessary Publication of what ought to be kept secret; As by *Diogenes* Lying with a Woman in the Market-place, or the *Jews* lying with a Woman before two Witnesses.

(2.) By using such Ceremonies as produce wantonness, as Lascivious Songs, Promiscuous Dancings, Excessive vanity of Apparel, publick Exposal of the Bride to view Bridals, and many others.

(3.) By using such Ceremonies as are Ridiculous; of which there's before mention, *Lib.* 1. *p.* 4. and 127.

(4.) By using such Ceremonies as are Idolatrous as Consecrations of Brides at Altars or Idols.

(5.) By using unnecessary Ceremonies derived from the Priests of *Priapus* and *Venus*, and other Pagan Priests, and offensive to tender Consciences.

(6.) By Compulsion of Ceremonies in Marriage on Tender Consciences not commanded by the Law of God. For though as is said, *Rom.* 14. 14. *Nothing is unclean of it self*, yet as it follows in the same Verse, *To him that esteemeth any thing to be unclean, to him it is unclean*, and God's Ordinance of Marriage thereby Prophaned; which is of it self and without them most Holy.

Compulsion of Ceremonies on Tender Consciences, Prophane Marriage.

(7.) *Of Chastity making Marriage Holy and Indissoluble.*

When God hath joyned a Man and a Woman, and they are made one Flesh, there needs no other Portion or Dowry to make the Marriage but Chastity:

Dos

Dos eſt magna Parentum
Virtus, & metuens alterius viri
Certo fœdere Caſtitas.

But the corrupt Popiſh Practique of Ceremonies in Marriage, hath deſtroyed the Honour and Uſe of ſo great and rare a Virtue, and a *Meſſalina* if ſhe is led to a Prieſt and Temple, ſhall be a holy Wife and a *Lucretia*, if ſhe leads not the ſame Dance ſhall be a Prophane one, or none at all. But what this unclean Doctrine of ſuch Doctors is, matters not: By the Scripture Chaſtity of the Woman and the Bed undefiled makes Marriage Holy and Honourable, *Heb.* 13. 4. and Inchaſtity diſſolves and makes it ſhameful, *Levit.* 20. 10. *Pro.* 5. 9. & 6. 33. *Mat.* 19. 9. And not the Ceremony of Prieſts or Temples; as to which Heavenly virtue we need cite no more excellent Example than the Lady her ſelf, before objected againſt by thoſe who never imitated her in the ſame; againſt whoſe Chaſtity Fame it ſelf dared not Lye. Compulſion of Ceremonies deſtroy Chaſtity.

Of the Indiſſolubleneſs of ſuch Marriage without Ceremony Conſummated by Carnal knowledge and Procreation of a Child.

It is not denied but that by the corrupt Practice of the *Jews*, *Greeks*, *Romans*, and other Nations, Men Divorced Women, and Women who were free and not ſlaves Divorced Men arbitrarily at their pleaſure, not only after Carnal knowledge, but after Childbirth, and many Children had; without cauſe or crime. But this is expreſly forbidden by Chriſt, *Mat.* 19. 6. *They two are no more twain but one fleſh, What therefore God hath joyn'd together, let no man put aſunder.*

That the Marriage intended by Chriſt to be Lawful and Indiſſoluble, was only ſimple carnal knowledge without Ceremony between a man and a woman not Prohibited to marry by the Law of God.

(1.) Becauſe at the time and place when and where Chriſt taught this Doctrine of the Lawfulneſs and Indiſſolubleneſs of Marriage in anſwer to the queſtion concerning Divorce by the Phariſees to tempt him, *Mat.* 19. 3. There was no other kind of

of Marriage then known amongſt the *Jews* but theſe three: (1) *Copulatione.* (2) *Coemptione.* (3) *Inſtrumentis.* Nor amongſt the *Romans* who ruled the Land, but theſe three: (1) *Uſu.* (2) *Coemptione.* (3) *Confarriatione.* Now it is manifeſt Chriſt intended not *Coemptione*, *Inſtrumentis*, or *Confarriatione*; all which kinds are already before explained what they are. For firſt he intended only that kind of Marriage which maketh one fleſh, as he expreſly declareth, *Verſ.* 4, 5, and 6. which is only Carnal knowledge. Therefore he intended not Coemption or Marriage Writings, or the Ceremony of Confarriation by eating a Barley Cake before a Prieſt in a Temple; for none of theſe make the Man and Woman one fleſh. Secondly, Chriſt expreſly declares *Verſ.* 4. and 8. That he intends ſuch a kind of Marriage as was from the beginning, that is, from the time of the Creation of Male and Female. Now it is clear that there was no kind of Marriage from the beginning but ſimple Carnal knowledge without Ceremony, and ſecret without Witneſs, except God only; and no ſuch thing as Coemption or buying or ſelling Women for Money, without writing, or buying or ſelling them for Joyntures or Thirds by Indentures or Inſtruments written, nor buying or ſelling them for Fees by the Prieſt for his Confarriations and other ridiculous Ceremonies. Thirdly, Chriſt whipt all Buyers and Sellers out of the Temple, and intended they ſhould not buy or ſell there; much leſs did he intend they ſhould buy or ſell there God's holy Ordinance of Marriage. Fourthly, Chriſt aboliſhed all Ceremonies, and taught the Worſhip of God ought to be in Spirit. And Fifthly, Chriſt never Inſtituted any Marriage by a Prieſt, nor did he or his Apoſtles ever Marry a Man and a Woman: he intended not therefore ſuch kind of Marriage, which neither God inſtituted nor of which he from God gave either Precept or Example. Sixthly, Chriſt only intended ſuch Marriages, whereof according to God's Ordinance, the Poor might take equal benefit with the Rich: For he ſaith, *to the Poor the Goſpel is preached*, but the Poor can take no benefit of Coemptions or buying of Women for Money, or for Jointures or Thirds, nor are able to give Fees to Lawyers for Indentures, or to Prieſts for Ceremonies, or to buy Licenſes or Gold Rings, or to pay ſo much as for Banns or Proclamations; Chriſt therefore never intended they ſhould be Prohibited all Marriage, except it were

were *Coemptione*, *Inſtrumentis*, or *Confarriatione*; he gave them therefore that Marriage which was *Copulatione*; otherwiſe they could have the benefit of no Marriage at all. Seventhly, 'Tis manifeſt that Chriſt makes the Marriage *Copulatione* to be the Ordinance of God which was from the beginning; for which a man ſhould leave Father and Mother, and ſhould cleave to his Wife, and this was the Law of *Moſes*, and the Law of the *Romans*, and Chriſt doth eſtabliſh and confirm it by forbidding any Divorce except for Fornication, which in the Woman is *Polyandry*, and according to the Maxim of Nature, *Unumquodq; diſſolvitur eodem modo quo Conflatum eſt.* As Carnal knowledge by a Woman with her Husband ſhall make Marriage; ſo Carnal knowledge with another Man, doth unmake and diſſolve the Marriage. If therefore Marriage by Carnal knowledge only is, according to the Doctrine of Chriſt, a joyning together by God and indiſſoluble, *à Fortiore*, Procreation of a Child between them, is a joyning together by God, and Indiſſoluble by Man, and even it is by the Light of Nature acknowledged, That Procreation of Children is a greater obligation than Copulation not fruitful.

Naſcitur ad fructum Mulier, prolemq; futuram.
Claud. in Eutrop.

——Tormentum ingens Nubentibus hæret,
Quòd nequeant parere & partu retinere Maritos.
Juv. Sat. 2.

Fœmina cùm ſenuit, retinet Connubia partu,
Uxoriſq; Decus, Matris Reverentia penſat.
Nos Lucina fugit, nec pignora nitimur ulla.
Claud. in Eutrop.

An

An Epithalamium *on the Marriage of* Nature *intended by Christ, without a Priest or Temple.*

BRazen was Venus *when in Pride*
To Temples throng'd she led a Bride,
Who with a blush
Like Rosie bush
First with one man in Woods did hide.
There free from fascinating charms,
And Hungry Wolves more cruel harms,
The Lamb did play,
And never stray
From fold of her own Shepherds arms.
Fair Chastity in Angels shape,
The Nymphs there taught how to escape
With pretty smiles,
And witty wiles
From every wanton Satyr's rape.
The Turtle there in secret sate
As sick of Love, as was her Mate,
And still did moan
To him alone;
Nor from him fled until her Fate.
The lesser Birds did sit and sing
How these in prime the Queen and King
Had been of May
So sweet and Gay
When it approached to the Spring.

There

There in the Royal Oak of Jove
Princes did wed and Live and Love;
And of Renown
Without a Crown
They Kingdoms had from God above.
Faſt by in Cottages of Reed
The Subjects lay who were agreed.
Their Love did bleſs
With Happineſs;
Oh happy thrice they and their ſeed.
No Mother there more fierce and wild
Then Tyger kill'd her new born Child:
Nor from it fly
For Pariſh cry
The Father did or was exil'd,
The weeping Babe not babling Fame
Dar'd illegitimate their Name,
Or Puniſhment
On Innocent
To lay of Parents guilt or ſhame.
Thus had the lovely Pairs at firſt,
Had not the State of Man been curſt
In Eden's *Bowers*
New dreſt with Flowers,
Their own Fruit unforbidden nurſt.
Thus he did Marriage make divine,
Who Water turned into Wine,
And Heav'n to fill,
Where is no ill
With little Children did deſign.
Till what was right was feign'd amiſs,
Unleſs the Prieſt had the Tenth kiſs,
And fees beſide
To bleſs the Bride,
Then loſt they Innocence and bliſs.

Obj. 7. *The eldeſt Son not Heir intended by the Statute.*

Eldeſt Son not Heir.

Anſw. 1. This Objection is in its own Nature repugnant to it ſelf, That the eldeſt Son and Heir in the Letter of the Statute, is not the Heir in the Intention.

(2.) Tis *Proteſtatio contraria facto*, and not only to the Fact of another, but to the Parties own Fact; who Objects for the Popiſh Party who deny him to be Heir in their words, affirm him to be Heir by their Deeds and wicked Plots to kill him as Heir, that they may ſeize on his Inheritance, as is already ſhewn, *Matth.* 21. 38. *They ſaid amongſt themſelves, This is the Heir, come let us ſeize on his Inheritance.*

A multitude of kinds of Heirs.

(3.) The word Heir is the *Genus*, and eldeſt Son is the Difference. So the Heir intended by this Statute is not only deſcribed, but perfectly defined and differenced from all other Species of Heirs; As there is *Hæres Sanguinis*, and *Hæres Hæreditatis*, there is *Hæres factus*, and *Hæres Natus*, *Hæres de facto*, and *Hæres de Jure*, *Hæres verus*, and *Hæres fictitius*, *Hæres Aſtrarius*, and *Hæres Apparens*. There is farther, the Heir by the Civil Law, who ſucceeds in *Univerſum Jus Anteceſſoris*, immoveable and moveable Poſſeſſions, and Obligations; There is the Heir by the Law of *Scotland*, and Cuſtoms in the North, who ſucceeds to Lands, Heirlooms, and Heretable Bonds; but not to other Moveables. There is the Heir by Cuſtom, and the Heir by Law. There is *Hæres ex proviſione Legis*, and *Hæres ex proviſione hominis*. There is the Heir by Contract *inter viros*, and Heir Teſtamentary and Heir *Dative*. There is *Hæres Viventis*, and *Hæres Defuncti*. There is the Heir in *Gavelkind*, and Heir in *Burgh Engliſh*. There is the Heir by the Eccleſiaſtical Law, and Heir by the Common Law, and Heir by the Statute Law. There is the true Heir, and Heir by the Certificate of the Biſhop. There is the Heir *per Jus Coronæ*, and the Heir by the Law for Subjects. There is the Heir by the Ceremonial Laws of Men, and the Heir by the Moral Law of God: There is the Heir of the Husband, and the Heir of the Wife; Heir of the firſt, and Heir of the ſecond Marriage, and ſo many other Kinds there are of Heirs here not named;

named; as the old Rhyme, though made on another Subject, may be true enough applied to this:

Of Heirs there are as many Kinds,
As Marriners have found out Winds.

And ſhould all theſe Kinds of Heirs, the greateſt part of whom were before this Statute, left unlimitted as to Supreme Succeſſions, either at once or Succeſſively in the Three Kingdoms, bring their pretenſions of Right to Tryal by Battels, though Papiſts would Rejoyce in ſuch perpetual Tempeſts as they themſelves had raiſed to Rent the *Britiſh* Oak in pieces, yet no Proteſtant there would be who would not acknowledge it a great Providence of God, and Piety and Prudence in this Statute, which to prevent the Cauſes of ſo many Inteſtine Diſcords, hath reſtrained the manifold kinds of Heirs, to whom there can be but one at a time in the Three Kingdoms who is the King's eldeſt Son, and Heir of his Blood.

Eldeſt Son the only Heir intended.

(4.) 'Tis manifeſt this Statute intended no kind of Heir but the eldeſt Son and Heir; Firſt, Becauſe the Natural affection of the Father directs his intention irreſiſtably to his eldeſt Son. Secondly, Becauſe his Wiſdom and Self-Preſervation leads to the eldeſt Son, who, as is before ſhewn, is above all other Children the chiefeſt Defence of the Father. Thirdly, Becauſe the *Black Prince*, who was intended to have the benefit of this Statute, was the eldeſt Son and Heir of *Edward* the Third, the maker of this Statute.

Hæres Sanguinis, & non Hæreditatis intended.

(5.) 'Tis manifeſt this Statute intended *Hæres Sanguinis*, and not *Hæres hæreditatis*; Heir of Blood, and not Heir of Goods; and *Hæres viventis*, and not *Hæres Defuncti*; Except before he is Born, and not after. And though *John-an-Oaks*, who hath been ſo long the Parret of *Littleton* and *Coke*'s Law, will ſtomach it very much to be taught a new Leſſon; yet under his favour, his Tutors in theſe matters of Marriage, Filiation, and Succeſſion, were very much Miſtaken or Partial in this as other Matters, and many of them in the two former Books have been already ſhewn. And I ſhall, as to the two particulars here mention'd, further ſhew, firſt therefore, That *Hæres*

Sanguinis, is intended in this Statute, and not *Hæres Hæreditatis*.

(1.) Becauſe *Hæres Sanguinis*, is *Hæres deſignans*; & *Hæres Hæreditatis*, *Hæres deſignatus*, to be known by the other.

(2.) Becauſe the words of the Statute are, *our Lord the King, the Lady his Companion, or their Eldeſt Son and Heir*: Now the Heir of the Inheritance of a Kingdom cannot be intended, Becauſe he derives his Title to the ſame only from the King, and not from the Lady Companion, unleſs a Queen Regnant; therefore he cannot be the Heir of both of them, as he is *Hæres Hereditatis*; but as he is *Hæres Sanguinis*, he is Heir of the Blood of both of them, which is the only Heir, intended by this Statute. Secondly, ſeeing the *Heir of Blood*, is in the Expreſs words of the Statute: And no words at all of the Heir of the Inheritance, therefore the Heir of Inheritance ought not to be put in the intention, otherwiſe than as *Hæres deſignatus*, marked to be known, by the firſt knowing who is *Hæres Sanguinis*, becauſe then a Penal Statute would be extended by Equity.

And as to the other Particular, It is manifeſt, That *Hæres viventis* is intended in this Statute, and not *Hæres defuncti*, except before he is born, and not after. Firſt, becauſe the eldeſt Son who is *Hæres Sanguinis*, moſt times happens to be born in the life-time of his Father, and not to be a *Poſthume*, and, *ad ea quæ frequentius accidunt Jura adaptantur*. Therefore *Poſthumes*, which do rarely happen to be eldeſt Sons, ſhall not be only intended to be within the Statute, and the eldeſt Son on whom the Royal Blood deſcended *en ventre ſa mere*; And he was Heir to the ſame before he was born, be therefore excluded, becauſe he is *Hæres viventis* to the ſame after he is born, and his Father died not before his Birth. Secondly, The words of the Statute, Reſtrain not the Heir to be, *Hæres defuncti*; before he is born, or after he is born; therefore to reſtrain by the intention of either, is to extend a Penal Statute by Equity; which ought not to be done. Thirdly, my Lord *Coke* himſelf, 3 *part*., *fol*. 9. in his Expoſition on this Statute, ſays, That *Heir*, is here taken for Heir apparent, for he cannot be Heir in the life of the Father. It is a clear miſtake; for firſt, an Heir apparent can only be of the King, but the Statute makes him Heir both to King and Lady, and the catch which they have.

Hæres viventis intended *Hæres Sanguinis* and not *Hæres Hereditatis*.

have got of *Hæres non eſt viventis*, was never intended to be any other than *Hæres Hæreditatis*, which kind of Heir is before unanſwerably Proved not to be intended within this Statute. And if it had, the Statute had ſerved to little purpoſe to aſcertain the Heir of the Crown, ſo many ſorts of Laws and Cuſtoms pretending to be the Rule of Judgment of *Hæres Hæreditatis*: but the eldeſt Son, who is *Hæres Sanguinis*, as is already ſhewn, can be but one in the Three Kingdoms; and that the King's eldeſt Son, who is *Hæres Sanguinis*, the Chief Heir of his Blood, by the Law of Nature, and not him who is made *Hæres Hæreditatis* by Papal and Epiſcopal Laws. When *Theſeus* had occaſioned the Death of his Vertuous, Valiant and eldeſt Son *Hippolitus*, by the falſe Calumnies of *Phædra* his Stepmother, he crys out,

O nimium Potens,
Quanto Parentes Sanguinis vinclo tenes,
Natura! quam te colimus inviti quoque!
Occidere volui noxium, amiſſum fleo.
Seneca in Hippol.

I cannot, oh too potent Nature ſhun
The Bonds of blood 'twixt Father and a Son:
His blood, his blood, I in my anger ſhed,
For whom I now ſhed Tears when he is dead.

And did not *David* fall into a greater Paſſion of Love for *Abſolon*, though the moſt Unnatural, Ingrateful, and Traiterous Son that ever was. 2 *Sam.* 18. 32. *And the King ſaid unto Cuſhi, Is the young man Abſolon ſafe? and Cuſhi anſwered, The enemies of my Lord the King, and all that Riſe againſt thee to do the hurt, be as that young man is; And the King was much moved, and went up to the Chamber over the Gate and wept; and as he wept, thus he ſaid, Oh my Son Abſolon, would God I had died for thee, oh Abſolon, my Son, my Son.* But what would *David* have done if *Abſolon* had been a Loyal and Obedient Son. Oh! where he now only wiſhed he had died once, he would then have cryed out and wiſhed he had died twice for him.

(7.) All Heirs are either Lineal or Collateral, unleſs therefore one of theſe Kinds are intended, the Statute can intend none

Collateral Heirs of the Crown not within this Statute.

none at all; now that Collateral Heirs are not intended, is expreſly delivered by *Coke*, 3 *Part. fol.* 9. where he ſaith, if the Heir apparent to the Crown be a Collateral Heir apparent, he is not within this Statute as he ſaith, *Roger Mortimer* Earl of *March*, was *Anno Dom.* 1487. (11. *R.*) Proclaimed Heir apparent *Anno* 39. *H.* 6. *Richard* Duke of *York* was likewiſe Proclaimed Heir apparent, ſo was *John de la Poole*, Earl of *Lincoln*, by *R.* 3. and *Henry* Marqueſs of *Exceter* by King *Henry* the Eight, but none of theſe or of the like are within this Statute, if only Lineal Heirs are within the Statute, there can be none but the eldeſt Son can be Heir intended, the eldeſt being expreſly named Heir, and none beſides named at all.

That to compaſs the Exile or Diſinheriting of the King's eldeſt Son, is High Treaſon.

To Exile or Diſinherit the King's eldeſt Son, High Treaſon.

Firſt, Becauſe the Exiling or Diſinheriting the King's eldeſt Son indangers the King himſelf. Secondly, Becauſe to compaſs the Exile, compaſſeth the Death of the eldeſt Son; by depriving him of the King's Protection, and expoſing him to Poiſon or Aſſaſſination of his Enemies, and to compaſs to Diſinherit him, is a manifeſt deſign to deſtroy him, without which his Inheritance cannot be taken from him; as *Matth.* 21. 38. *They ſaid amongſt themſelves, this is the Heir, come let us kill him, and let us ſeize on his inheritance, And they caught him, and caſt him out of the Vinyard, and ſlew him.*

Object. 8.

Obj. 8. *The Son of a King, born after he is King, is to be prefer'd in Succeſſion before the Son of a King born, while he is Prince.*

Born when a Prince, and born when a King.

And of this there are many Examples, as *Henry* the Firſt, being the youngeſt Son of *William* the Conqueror, ſtanding in Competition for the Crown of *England* againſt *Robert* Duke of *Normandy*, his elder Brother, made this one of his Objections, That *Robert* was born when his Father was but a Duke, but *Henry* was born when his Father was a King; and therefore obtained the Kingdom againſt *Robert* his eldeſt Brother. And it is recited by *Grot. de Jur. Bel. & Pac. p.* 171. That the like paſſed in *Perſia*, between *Cyrus* and *Arſica*; in *Judea*, between *Anti-*

Antipater the Son of *Herod* the Great, and his Brother; in *Hungary*, when *Geiſſa* obtained the Kingdom; in *Germany*, between *Otto* the Firſt, and *Henry*, though not without Arms; and likewiſe the ſame Queſtion was between *Xerxes*, and his Brother *Atabarzanes*, and between *Artaxerxes Mnemon*, and *Cyrus*, the Sons of *Darius*, and *Pariſatis Artaxerxes* being the elder, but born during the Private fortune of *Darius*, and the like happened between *Bajazet*, and *Zemez*, contending for the *Turkiſh* Empire, and many others.

Anſw. Theſe were put to the Tryal of Battel, and for the greateſt part the eldeſt Son had the Succeſs; but if it had been otherwiſe, the Event of War is no Rule of Juſtice; and if it had been without War, yet where there is a ſtanding Act of Parliament *Judicandum eſt Legibus non Examplis*. And this Act of Parliament was made to prevent the preſent, and all other Accidents which might happen to diſturb the Peace of Succeſſion of the Kingdom, and raiſe Civil Wars, which it could not do without all other Sons and Heirs to the eldeſt Son, and there being no other Son mentioned in the Letter of the Statute but the eldeſt, and not a word of Diſtinction whether born before or after the Father's obtaining the Kingdom; *Ubi lex non diſtinguit ibi nec nos diſtinguere debemus*; for then the ſame miſchiefs would inſue beforementioned of extending a Statute of Treaſon by Equity, which leaves Treaſon arbitrary to every Judge who will aſſume to declare it beyond the Letter, and to inſert as many kinds of Sons and Heirs as he pleaſed, which would make the Law, and all the Care and Wiſdom of it in aſcertaining the Son Heir to be of no Effect, and leave the Kingdom in a dangerous Condition, that every Prince Married in his Father's life-time, and having then ſome Children, and after his Father's Death others, might occaſion a Civil War, who ſhould ſucceed to the Crown when he died.

Obj. 9. *The next Objection, That the King's eldeſt Son is not yet Declared Prince of* Wales, *or Prince of the* Scots. *Object.* 9.

The Original of this Title uſed to be given to the eldeſt Sons of the Kings of *England*, was from *Henry* the Third, who gave

gave his eldeſt Son *Edward* (who was afterward King *Edward* the Firſt) on his Marriage to *Elianor* the Daughter of *Spain*, amongſt other Principalities in *France*, *England*, and *Ireland*, likewiſe that of *Wales*, *Hinc natum ut deinceps unuſquiſq; Rex qui ſecutus eſt filium majorem natu principem Walliæ facere conſuevit.* And in continuance of this Cuſtom, *Anno* 1610. Prince *Henry* the eldeſt Son of King *James*, was ſolemnly created Prince of *Wales* by his Father. As to the Title deſigning the Prince of *Scotland* to be next Succeſſor, or Heir apparent, it ſeems to have been by their Inveſtiture of *Cumberland*, for ſaith *Buchanan Rer. Scot. lib.* 6. *p.* 175. That *Conſtantine* the Third in the Tenth year of his Reign *Milcolumbo proximo Regis filio Cumbriam donavit, qui honos velut Augurium & Argumentum erat eum proxime regnaturum, Ac deinceps in proximis aliquot Regibus id fuiſſe obſervaturum manifeſta adverſus veterem Comitiorum rationem fraude, quæ omnem Liberorum ſuffragiorum vim prope tollerit, non minus quàm Coſſ. à Cæſaribus Deſignatio. Conſtantine* the Third in the Tenth year of his Reign gave *Cumberland* to *Malcolm*, the Son of the laſt King, which Honour was as it were the Inauguration or Sign of him who was next to ſucceed in the Kingdom, and was after obſerved by ſome of the next Kings to that end, to take away by Fraud the free Election by Parliament, no leſs than did the Deſignations of the Conſuls by the *Cæſars*; and after *p.* 189. he ſaith, That *Kenneth* the Third, being King by Election of the People to make the Kingdom Hereditary to his own Son *Malcolm*, finding it an Impediment in his way, that his Brother *Duffus* his Son *Malcolm Cumbriæ tum præfectus erat, quam Regionem Scoti beneficio Regum Anglorum ita tenebant, ut Cumbriæ Præfectura velut omen Regni eſſet, atq; ita jam per aliquot ætates obſervatum erat*, was then Governor of *Cumberland*, which Region the *Scots* held by Gift from the Kings of *England*, to that intent that the Preſidentſhip of *Cumberland* ſhould be for a Sign who ſhould be next Succeſſor to the Kingdom, and ſo for divers Ages the ſame hath accordingly been obſerved, he to inherit his own, Poiſoned his Brother's Son, and *p.* 190. he ſaith, *Milcolumbus regis filius in natura adhuc, ad rerum adminiſtrationem ætate & Cumbriæ præfectus et princeps Scotorum eſt Declaratus, quod nomen perinde eſt Scotis atq; apud Gallos Delfinus, apud priores Romanorum Imperatores Cæſar apud poſterio res Rex Romanorum, quibus omnibus Succeſſor ſuperiori Magiſtratui dari intelligitur.*

intelligitur. *Malcolm* the King's Son in an unripe Age for Publick Affairs, is declared Preſident of *Cumberland*, and Prince of the *Scots*, which Name is with the *Scots* Equipollent to the Daulphin amongſt the *French*, to *Caeſar* amongſt the Ancient *Romans*, and amongſt the Modern to the King of the *Romans*; by all which Titles, the Succeſſor to the Superiour Magiſtracy is underſtood, but notwithſtanding for the moſt part this hath been the Cuſtom, yet it hath been likewiſe often omitted, and Admit it had not, yet there being no Law requiring it, there is no pretence that ſuch Omiſſions makes any incapacity in the Heir to ſucceed at Common Law, or to be within this Statute for the Statute making no Diſtinction between the King's eldeſt Son when made Prince of *Wales*, and when not, *Ubi Lex non diſtinguit ibi nec nos diſtinguere Debemus.* Beſides the Kingdoms being now United, a Title common to both were more convenient than ſeveral Titles. The *Roman* Title *Princeps Juventutis*, extended to the whole Empire.

The Objection of Illegitimation anſwered. *Object.* 10.

Of Illegitimation.

I think the Objector hath now ſpit his Venom, but let him take heed it doth not Poiſon himſelf; for firſt I anſwer it is already proved, That the Marriage of the Lady-Mother, was Lawful, Holy, and Indiſſolvable, according to both Precepts, and Example of Scripture; and that no Humane Power can Prohibit ſuch Marriages which the Law of God hath not Prohibited, and that Marriage is not a thing indifferent, but neceſſary, and Commanded by God; and therefore what are made *Actus Legitimi* by God, *non recipiunt modum aut Conditionem* from Men, nor ought the Holy Ordinance of God be compelled to be prophaned by Papal Ceremonies, and dare any then Illegitimate that Law of God by a Law Papal, or an Act of Parliament by a Law Epiſcopal, and vend ſuch an Act as will hereafter be ſhewn to make it High Treaſon for any Subject to affirm the King's eldeſt Son Illegitimate; but before I proceed to that, I ſhall firſt prove the following *Theſis.*

Marriage a thing not indifferent, nor to be limited by the Laws of Men.

That not only by this Statute, but by the Law of God, the Law of Nations, and the Jus Coronæ *of* Great Britain, *Primogeniture in Succeſſion hath been prefer'd, and ſuch Iſſue adjudged*

The eldeſt Son of a King of *Great Britain* Legitimate by his Birthright.

judged Legitimate, Though procreated of unlawful Marriages and Persons Prohibited to Marry, but was never question'd by any Law (except that of Popes and Bishops) in the Issue of Persons not Prohibited by the Law of God to Marry.

Concerning Legitimation by the Law of God and Nature, there is more than enough already spoken, *Lib.* 1. *p.* 79. to 83. and several other places already mentioned, concerning the Laws, declared in Scriptures this Right of Primogeniture and Legitimation was always observed amongst the Kings of *Israel* and *Judah*, even in their most unlawful Marriages, and without Ceremonies, with strange Women of foreign Nations, though expresly Prohibited to them by the Law of *Moses*, as appears by *Maimonides*, *Godwyn*'s *Jew. Antiq. Selden*, and others, but as to the same to be as brief as possible, I shall only insist on one Example, though not a Prince yet a Patriarch amongst them. It is said, *Gen.* 29. 16. *Laban had two Daughters, the name of the Elder was Leah, and the name of the younger was Rachel, Leah was tender-eyed, but Rachel was beautiful and well favoured. And Jacob loved Rachel and said, I will serve thee seven years for Rachel thy younger daughter. And Laban said, It is better that I give her unto thee, then that I should give her to another man, abide with me. And Jacob served seven years for Rachel, and they seemed unto him but a few days; for the Love he had unto her. And Jacob said unto Laban, Give me my Wife, for my days are fulfilled, that I may Go in unto her. And Laban gathered together all the men of the place, and made a feast, and it came to pass in the evening, that he took Leah his daughter, and brought her in unto him, and he went in unto her. Et* Vers. 25. *And it came to pass in the Morning, behold it was Leah. And he said to Laban, What is this thou hast done unto me? Did not I serve with thee for Rachel? wherefore then hast thou beguiled me? Et* Ver. 32. *And Leah conceived and bare a Son, and she called his name Reuben.* Gen. 49. 3. *Jacob saith, Reuben thou art my first born, my might, and the beginning of my strength, the excellency of Dignity, and the excellency of Power.*

Primogeniture succeeded amongst the Patriarchs, though no Marriage by a Priest in a Temple.

From whence may be observed, That if it were possible for any Objections to be of weight against the Right of Primogeniture and Legitimation in any, it might have been made against this of *Reuben*. For, First,

First, Here is no Intent nor Consent, no Contract, no Espousal of Marriage by *Jacob* with *Leah*.

(2.) There is no Banns, no Leadings to Church, no Ceremony, no Joyning by the Priest, no Benediction by him of *Jacob* and *Leah*.

(3.) What is worse than the want of all these;

Here is (1) a meer Cheat, a Woman that is hated in the dark clapt into the Bridegroom's Bed, instead of her that is beloved. (2) Here is the true Bride Robbed of her seven years expected Enjoyment, by a false. (3) Here is the Marriage-Covenant most perfidiously broken. (4) The Labourer is defrauded of his hire for seven years Labour. (5) Here is Adultery and Incest committed by the eldest Sister, with the contracted Husband of the younger Sister. (6) The elder Sister her self knows, and is accessary to all these Crimes; yet hath the Impudence to Rest all Night, Acting them in a stoln Bed, and to out-face them in the Light of the Rising Sun; for behold in the Morning it was *Leah*, notwithstanding all which *Reuben* is not punished for the Crimes of *Leah*, nor doth he lose thereby the Right of his Primogeniture; but *Jacob* declares him as aforesaid, *Gen.* 49. 3. *Reuben thou art my first born, my might, and the beginning of my strength, the excellency of Dignity, and the excellency of Power.* And though he likewise expresses for the great Crime of *Reuben* himself, the forfeiture of his Birth-right, and that excellency which thereby belonged unto him, and saith, *Vers.* 4. *Thou shalt not excel, because thou wentest up to thy Father's Bed, then defiled'st thou it:* And the same is likewise declared, 1 *Chron. cap.* 5. 1. *Now the sons of Reuben, the first-born of Israel, (for he was the first-born;) But forasmuch as he defiled his fathers bed, his Birth-right was given unto the sons of Joseph, the son of Israel*: Yet doth this prove the stronger, that notwithstanding the unlawful Marriage and Crimes of *Leah*, his Mother, the Birth-right belonged unto him, till he forfeited the Priviledge of it, by so great a Crime, as he himself Committed, and notwithstanding he forfeited the Priviledge of his Birth-right; yet he forfeited not his Legitimation, but inherited an equal filial Portion with his younger Brethren, for Legitimation is impossible to be forfeited, taken away, or destroyed; unless

Legitimation impossible to be forfeited, or to be taken from the Child, or the Incidents to the same.

unleſs it were poſſible to make the Son begot of ſuch a Father, not to have been begotten by him; for if he was begot by him, Filiation includes Legitimation and Aliment ſufficient if the Child want it, and the Father hath it in Poſſeſſion, and Succeſſion ought to be given him, though as to the Superalimentary Quantity of his Goods, the Father hath Liberty to diſpoſe them or alienate them from Legitimate and Illegitimate alike; how he pleaſeth for Filiation and Legitimation, are *Jure naturæ*, and *Jura Sanguinis*, and *Jura naturæ ſunt immutabilia*, and *Jura Sanguinis nulla Jure Civili divini poſſunt*; Upon the whole, I conclude, that were there no other Example but this, it utterly overthrows all manner of Objections whatſoever can be invented againſt the Right of Primogeniture, and makes ridiculous all Popiſh Fictions of Illegitimation. The Marriages of the Kings of *Judah* and *Iſrael*, and all the *Ebrews* might be *Copulatione* without Ceremony, *Godw. Antiq. & Selden.*

The Power of Alienation by the Father of the Goods, neither Legitimates or Illegitimates the Child.

As to the Laws of the other Nations, beſides the *Hebrews*, firſt to touch on the *Greeks*; *Euſtatheus* on *Homer* concerning *Teucer*, who was a Natural Son, affirms, That whoſoever is born of a Prince is lawfully Born, and ſo *Teucer* was held in as great Eſteem as any other, and injoyed his Inheritance; for as *Servius* ſaith in *Greece*, *Conſuetudinis Regiæ fuit ut Legitimam Uxorem non habentes, aliquam licet Captivam tamen pro Legitima haberent, ut Liberi Ex ipſa nati ſuccederent.* The Common Law of *Greece* was, That if a King had not a Lawful Wife, any Woman he had, a Captive Slave ſhould be accounted Lawful, and his Children by her ſhould be his Succeſſors. So this was the *Jus Coronæ* of *Greece*, though it was otherwiſe as to Succeſſion, amongſt the Subjects Children; for they had only a Filial Portion of a Thouſand *Drachmæ*, which they called τα νοθια, but not Illegitimated, or left without Portion.

Jus Coronæ of *Greece*, as to Legitimation.

Amongſt the *Roman* Emperors, there was no ſuch thing ever heard of as Illegitimation of the Emperors Children, till the Papal and Epiſcopal Laws overtopt the Imperial, nor any ſuch thing ever heard of, except falſly Tranſlated amongſt the Kings of *Iſrael* or *Judah*, or in the whole Scripture, nor in the *Ottoman* Empire, nor in any Nation, except where Popes and Biſhops have ſet their foot, and as to the *Jus Coronæ* of *Great Britain*, as 'tis well known the ſame is neceſſarily in many things as to Succeſſion different from the Common Law of Succeſſion

Jus Coronæ of *Great Britain* as to Succeſſion, differs from the Law of Succeſſion as to Subjects.

to

to the Subject; So it is as well known, that neither the *Romiſh* nor *Britiſh* Biſhops have dared (though they have Uſurped on the Subjects) to invade the Legitimation of the Crown in *Great Britain*, and if they have as in the famous Prince *Edward* the Sixth and Queen *Elizabeth*, it hath been fruitleſs. Firſt, *Conſtantine* the Great was the Natural Son of *Conſtantius Sorus*, by *Helena* a *Britiſh* Lady, who is called his Concubine, and whom (after the Birth of his eldeſt Son, the ſaid *Conſtantine*) he repudiated, and after Married *Theodora*, the Daughter-in-Law of *Maximinianus* the Emperor; yet *Conſtantius Clorus* dying here in *Britain*, his eldeſt Son *Conſtantine* the Great, without Scruple made by any, ſucceeded his Father in the Government of *Britain*, and all other Weſtern Provinces belonging to his Father's ſhare of Empire in *Scotland*, *Gillus Nothus* ſucceeded to his Father *Evenus*, notwithſtanding that falſe name of *Nothus* caſt on him by the *Romiſh* Epiſcopal Laws, contrary to the Law of God, which *Evenus* was a Wiſe and a good Prince; yet he never contracted the Mother of his eldeſt Son *Gillus* by the Ceremonies of a Prieſt or Temple; yet was this in a time of Chriſtianity, and not of Paganiſm, for *Donald* was the firſt Chriſtian King of *Scotland*, *Anno Domini* 199. which was long before *Gillus*, *Buch. Rer. Scot.* 103. *Et Skene* in his Table of Kings. *Robert* the Second of *Scotland*, a good and peaceable Prince (for thoſe *Attichules* doth *Skene* in his Table of Kings give him) took to him according to the words of this Statute to be the Lady his Companion, *Elizabeth More* the Beautiful Daughter of Sir *Adam More* his Subject, without any Ceremonies of Prieſt or Temple, and had Iſſue by her *John*, *Robert*, and *Alexander*; after he deſerts *Elizabeth*, and Marries her to *Giffard* a Nobleman of *Louthean*: And by the Ceremonies of a Prieſt and a Temple, Marries *Euphemia*, the Daughter of *Hugh* Earl of *Roſs*, and had Iſſue by her *Walter* after Earl of *Fearne*, *David* after Earl of *Athol*, and *Euphemia* after Married to *James Douglas*, after *Euphemia* the Queen dies, and much about the ſame time *Gyford* dies, King *Robert* reſumes *Elizabeth*, and Marries her by the Ceremonies of a Prieſt and Temple; as appears by *Buch. Rer. Scot. p.* 107. where he ſaith, that after the Death of *Euphemia*, *Robertus non tam impatientia Cœlibatûs quam Amore filiorum ex Elizabetha Mora prius Genitorum ipſam Uxorem duxit, hanc enim eliganti forma Adami Mori illuſtris Equitis filiam ad*

Gillus Nothus.

Robert the Second of *Scotland*, *Elizabeth More*, and *Euſimia.*

adhuc adoleſcens vehementer amarat; Ex eaq; tres filios & duas filias ſuſceperat, eamq; Gifardo viro nobili in Lothiana curaverat collocandam; verum ſub idem fere tempus Euſemia Regina & Gifardo Elizabetha Marito Defunctis, Rex ſene vetere conſuetudine Mora inductus, ſive (quod a multis traditur) ut filios quos ex ea genuerat Legitimos faceret, matrem eorum ſibi Matrimonio junxit, filios ſtatim divitiis & honoribus auxit, Johannes natu Maximus Carictæ Robertus Tinchiæ Alexander Buchaniæ Comites ſunt facti, adjecta etiam Badenach, nec munificatione Contentus Comitiis ad Scenam inditis obtinuit, ut præteritus Euſemiæ Liberis in Rege creando gradus ætatis obſervaretur. Whence may be obſerved,

(1.) That the Sons of a Lady born before any Marriage of her with the Ceremonies of a Prieſt or Temple ſucceeded to the Crown of *Scotland*.

(2.) That ſhe was a Lady not Prohibited by the Law of God for the King to Marry.

(3.) That ſhe was the Daughter of a Subject.

(4.) That the Subſequent Marriage by the Papal Law ſignified nothing, for no ſtreſs is laid on it but the Confirmation and Declaration of the Succeſſors ſought from the Parliament.

(5.) Though there were other Sons born of *Euphemia* the Queen, who was Ceremoniouſly Married by a Prieſt in a Temple; yet the Parliament thought juſt to paſs by her Sons, and to ſettle the Succeſſion on the Sons of *Elizabeth*.

Athelſtanus Nothus---- Legitimatt per Jus Coronæ.

Athelſtan was the eldeſt Son of King *Edward* the Elder before the Conqueſt, by a Lady his Companion, to whom he was never Contracted by the Ceremonies of a Prieſt in a Temple (but a Lady not Prohibited by the Law of God) to have Married; King *Edward* had after him five younger Sons by two Wives, whom he had Ceremoniouſly Married by a Prieſt in a Temple and died; after his Death, notwithſtanding the fourth Son of King *Edward* by one of his Epiſcopal Wives, was left alive; and notwithſtanding the Prieſts and others both in *England* and *Scotland*, ſought to diſhonour him with the Name of *Nothus*; for by that name *Buchanan Rerum. Scot.* 175. Stiles him and ſays, *Præerat omnibus Anglorum copiis Athelſtanus Edwardi Nothus*, And in the ſame manner, other Writers; yet

was

was neither the name nor the thing any bar of his Succeſſion to the Kingdom; but he was thereto prefer'd before his younger Brother *Edmund*, whom Papal Laws made Legitimate; and accordingly he was Crowned by *Athelmus* Arch-Biſhop of *Canterbury*, at *Kingſton* upon *Thames*: And proved after the moſt Heroick Victorious Prince that the *Engliſh* ever had before the Conqueſt; for he conquered both the *Danes* and *Scots* confederated againſt him, and ſubdued the whole Iſland.

Ethelfleda, for her excellent Beauty ſirnamed the *White*, was a Virgin and not Prohibited by Law of God for King *Edgar* to Marry; but he neglected or deſpiſed Pontifical Ceremonies, and begot on her, without them, his eldeſt Son *Edward*; for which *Dunſtan* Archbiſhop of *Canterbury* injoyned him ſeven years Pennance; which he underwent for the Fact.

Edward the Son of *Edgar*, Legitimate *per Jus Corona*.

After *Edgar* Married *Elfrida*, the only Daughter and Heireſs of *Ordganus*, Duke of *Devonſhire*, with the Ceremonies of the Church, and made her his Queen; and likewiſe Contracted with her, That her Children ſhould be Heirs to the Crown, and had Iſſue by her two Sons, *Edmund*, who died young; and *Ethelred*, who ſurvived him. *Edgar* dies, Queen *Elfrid* excepted againſt the Succeſſion of *Edward* the eldeſt Son, That his Mother was no Queen, nor Wife Married according to the Ceremonies of the Church, and that he was therefore Illegitimate; That ſhe her ſelf was King *Edgar*'s Queen and Wife, whom he Married Solemnly according to the Rites and Ceremonies of the Church; and that by his Marriage-Covenants he bound himſelf, That her Children by him ſhould be Succeſſors to the Kingdom; That therefore her Son was both the Legitimate Heir, and Heir by Covenant; and thereupon drew divers Lords to be of her Party; and the two Sons are both produced before the Council aſſembled to demand their Rights: But while the Council ſate to Debate the ſame, *Dunſtan* Archbiſhop of *Canterbury* came in with his Banner and Croſs, and not ſtaying for diſpute of the Title, preſented Prince *Edward* the eldeſt Son as next right Heir to the Crown, and their lawful King; and the Aſſembly conſiſting moſt of Clergy-Men, drew the Approbation of the Reſt; whereupon Prince *Edward* was Admitted and Crowned King, being but Twelve years old, by Archbiſhop *Dunſtan* at *Kingſton* upon *Thames*, *Anno Dom.* 975. and ſo continued, till about Three years.

Note, here are all the Objections made againſt the ſucceeding to the Crown by *Edward*, which are now made, and more; for here is an Heir by Marriage-Covenant oppoſed againſt the Natural Heir.

years and Six Months after, King *Edward* Hunting in the Isle of *Purbeck*, not far from *Corf* Castle, where his Mother-in-Law Queen *Elfrid*, with his Brother *Ethelred* were then Residing, he out of his Love to both, would needs go to visit them; where the cruel Step-mother out of Ambition to make her own Son King, caused one to Stab him in the Back with a Knife as he was Drinking a cup of Wine on Horseback, at his departing; who feeling himself hurt, set Spurs to his Horse, thinking thereby to get to his Company; but the wound being Mortal, and he fainting through loss of so much Blood, fell from his Horse, and one foot being intangled in his Stirrup, he was thereby ruefully dragged up and down; and lastly, left Dead at *Corf* Gate; in Commiseration of which untimely Death, he was ever afterward called *Edward* the Martyr. On which may be noted,

(1.) That notwithstanding the Mother of *Edward* was no Queen; Notwithstanding she was never Contracted nor Married by the Rites and Ceremonies of the then Church; Notwithstanding *Elfrid* was a Queen, and solemnly Married by all those Rites and Ceremonies; notwithstanding the Kingdom was by Marriage-Covenant setled on her Issue by King *Edgar*; Notwithstanding *Ethelred* appeared with a Company of Lords Competitors; Notwithstanding the accompanying of *Edgar* with *Elfred*, was through *Romish* Superstition, thought so unlawful as not to be Expiated under seven years Pennance; Yet the same Archbishop *Dunstan*, who imposed the same on the Father, laid none on the Son, but he and the Clergy declared him the Right and Lawful Heir; by which they did implicitly confess and acknowledge, That the Moral Law of God of Marriage, and not any Ceremonial Law of Man, is the immutable Law which ought to Govern the Succession of the Crown.

(2.) The opinion of the Possession of the Crown to purge all Treason from him who commits it, hath been a great incouragement to the committing of the same.

(3.) That Princes disinheriting the Children of the first Wives, and entailing their Kingdoms to the Children of the Second, destroying thereby their own Houses.

(4.) That

(4.) That none are more Cruel to the Children of the first Mothers, than Step-mothers; which it seems makes all Poets so out of Charity with them, that they never mention them without some odious Epithet of *Injuſtæ*, *malæ*, *diræ*, *feræ*, *terribiles Novercæ*, and defame them with Stabbing, Poiſoning, and Witchcraft.

Pocula ſi quando Savæ infecere Novercæ,
Miſcuerunt q; herbas & non innoxia verba.
Virg. Georg. 2.

When Cruel Step-mothers Poys'ning the Cup,
Add Herbs and Spells for Right Heirs to drink up.

I find but one kind of Step-mother excepted by *Horace*, as not apt to be Guilty of theſe Practices, which is ſhe that neither brings Portion, nor expects Jointure, particularly of the *Getick* Women; of whoſe Chaſtity and good Nature he thus writes:

Illic matre carentibus
Privignis mulier temperat innocens,
Nec dotata regit virum
Conjux, nec infido fidit adultero:
Dos eſt magna parentium
Virtus & metuens alterius viri
Certo fœdere caſtitas,
Et peccare nefas aut pretium mori.

The innocent and kind Step-mothers there,
The Orphans Motherleſs to hurt forbear,
And not with Portions o're their Husbands rant,
Helpt by the Gay adulterous Gallant.
Vertue is Portion great, and Chaſtity
Strange man to touch, more fearing than to Die.

(5.) That where Marriage by the Ceremonial Laws of Men is preferr'd before a Marriage by the Moral Law of God, this makes way for all Murders by Step-mothers of the Children of

first Mothers; of which see likewise the Example of *Roxalana*, before related at large, *Lib.* 2. *cap.* 1. *p.* 245.

William the Conqueror succeeded to his Natural Fathers Dukedom, his Mother never Married by a Priest in a Temple.

William the Conqueror was the Son of *Rollo* Duke of *Normandy*, by *Arlotte* a mean Woman, whom he made *Sa Compaigne*, or *Sociam Thalami*, without any Ceremonies of a Priest or Temple; she was a Person how mean soever, yet not Prohibited by the Law of God for him to Marry, and though some slander her in hatred to her Son, as if by some Lightness of hers all such as were of that Trade were since called Harlots, from her name *Arlotte*; yet we find no proof of any Inchastity in her, only she could Dance *Ala mode de France*, and if they can prove she was Guilty of any worse, and were an Harlot, it only makes the President the stronger, that the Law and Custom at that time and Countrey was, that the Duke's eldest Son, though by a Woman taken without any Ceremony of a Priest or Temple, ought after the Death of the Duke succeed to the Dukedom, neither was this way any other Law or Custom than what is already shewn to have been amongst the Princes of the *Hebrews*, *Greeks*, *Romans*, and all other Nations not inslaved by Superstition to receive the Forms of Marriage, and acknowledge the Supreme Jurisdiction of them to be in the Bishop of *Rome*, or their own Prelates or Pontiffs; by which Examples it appears, That by the *Brittish*, *Scottish*, and *Norman* Laws, the eldest Sons of Kings by Women not Prohibited to be Married by the Law of God, though not Joyned by a Priest in a Temple, or any other Episcopal Ceremony; yet by Right of Primogeniture, they succeeded in the Governments of their Fathers Dominions. It will be asked how then came the ancient Law of God and the Land to be changed concerning these matters of Marriage, Filiation, and Succession, and the Jurisdiction to be got or pretended to be in Episcopal hands to Judge and Dispose of Marriage, Filiation, and Successions both to the Crown, and Lay-Inheritances, according to Canonical Laws, and not the Laws of God nor the Land? To which is answered, That as to *Normandy*, and other the *English* Dominions after acquired in *France*, as *Bodin* says, *fol.* 741. *Hugh Capet* was the first that made a Law in *France*, That natural Sons, that is to say, such whose Parents were not Married by the Popish Ceremonies of a Priest in a Temple, should not be Heirs, nor succeed to the Kingdom. And at last

Hugh Capet an Usurper of the *French* Crown, to curry favour with the Pope, first disinherited natural Children.

strain'd

ſtrain'd his Law to that Degree of unnatural Cruelty and Folly; that it was Enacted, That natural Children ſhould not be accounted natural Children, which Nonſence in that time of Popery, was not only followed by the *French*, but imitated to get Money by the *Engliſh* and *Scotiſh* Eccleſiaſtical and Common Lawyers; who, as hath been already ſhewn would not admit natural Children to be Sib Kin of Conſanguinity, nor Children to the Father who begot, or the Mother who bare them; as if it had been in the Power of *Hugh Capet* and them to overthrow or change the Laws of God and Nature. So likewiſe by a *French* Decree, as ſaith *Everard*, p. 24. All Children born in Marriages, not Bleſſed by a *Romiſh* Prieſt, are made incapable to ſucceed to the goods of Father or Mother: the Law of *Capet* was plotted by the *French* Biſhops, to get themſelves Supremacy of diſpoſing the *French* Crown, which foundation of Power they commonly got from Uſurpers to the intent that by their Eccleſiaſtical pretence of Authority, they might protect a falſe Title, and diſinherit the true Heirs of the Blood. *Heylin* in his Geography, p. 186. ſaith, That Popes ſtrengthen themſelves by unlawful Marriages of Princes, and not by lawful; and p. 101. That *Hugh Capet* being a Prince of a ſtrange Blood, was hoyſ.d up by the People to the Prejudice of *Charles* of *Lorrain*, the true Heir of *France*, as Brother to *Lotherius*, and Uncle to *Lodovicus* the laſt King of the Line of *Pepin*. And p. 129. he ſaith, The occaſion why *Capet* was choſen, and *Charles* of *Lorain* refuſed was this, *Charles* Son to *Lewis* the Fourth King of *France*, being left to the courteſie of his Brother, and by him not regarded, was by *Otho* the Emperor inveſted in the Dutchy of *Lorain*, *Anno* 984. which containeth one Marquiſate, five Earldoms, and divers Baronies. The eldeſt Son likewiſe of *Lorain*, is intitled Prince of *Barry*; for which cauſe that he received *Lorain* from the Emperor; *Charles* ſhewed himſelf ſo alienated from the *French*, and wedded to the *Germans*, that the *French* after the Death of his Couſin *Lewis* the Firſt, rejected him, and choſe *Hugh Capet* for their King. This *Charles* had one Son named *Otho*, and one Daughter called *Hermingrade*; from her deſcended *Iſabel* Wife to *Phillip* the Second, uniting the Bloods of *Pepin* and *Capet*, to the great content of her Grandchild St. *Lewis*, who being a Man of a very tender Conſcience, is ſaid never to

Prohibition of Marriage, *Sans* Ceremony, a *French* Toy to diſinherit all Proteſtant Children.

Popes ſtrengthen themſelves by unlawful Marriages and Succeſſions of Princes, and not by lawful.

have joyed in the Crown of *France*, till it was proved that by the Mothers ſide he was the right Heir of *Charles* of *Lorain*, whom *Hugh Capet* had ſo unjuſtly diſpoſſeſſed.

French and Popiſh Laws of Marriage, ſeek to deſtroy all *Engliſh* Heirs, and the Proteſtant Religion.

So it appears, this *French* Law againſt Natural Sons was made to diſinherit the true Heirs of the Royal Blood of *France*, and to inherit the Certificate Heirs of the *French* Biſhops; and the other *French* Law mentioned againſt all Succeſſion of the Children whoſe Parents at their Marriage received not the Benediction of a *Romiſh* Prieſt was made on Deſign to diſinherit all Proteſtant Children. The Law of *Theodora* againſt Natural Heirs, was to Diſinherit the true, and Inherit adulterous Heirs. The Law of *Trent* nulling all Marriages without a Prieſt, and Witneſſes, was to ſet to Sale Community of Women, to raiſe Rents out of Stews, to lay a Tribute on Marriage, and inſlave the Succeſſions of Kingdoms and private Patrimonies, to the will of Popes and Biſhops. Are there any Degenerous *Engliſh* ſo much *Frenchified*, as will impoſe *French* Laws of Succeſſion on the *Engliſh* Crown? Shall *Hugh Capet*'s Laws dare to contend with this Law of *Edward* the Third, who beat and Conquered the greateſt Navies and Armies of *France*; and in tryal by Battel at *Creſſey*, proved his Right better to the Title of King of *France*, than the Heir of *Capet* his; and had the ſame Heir of *Capet* taken Priſoner in Battel by the Black Prince, the Heir of this Statute? Are there any ſo falſe Proteſtants as to introduce ſuch Popiſh Laws as diſinherit all Proteſtant Children? Are there any ſo prophane Chriſtians as will prefer the Ceremonial Laws of Men above the Moral Laws of God? It hath been ſhewn thus far by the Examples of ſo many Kings of this Iſland of *Great Britain*, that their Legitimation and Succeſſion thereby to the Crown, were by the Moral Law of God, and not by the Ceremonial Laws of *Romiſh* or *Britiſh* Biſhops; and none dared in *Great Britain*, though they did in *France*, aſſume the Supremacy of Eccleſiaſtical Juriſdiction above the Royal and Parliamentary in Declaring the Succeſſors of the Crown; or if they did, they were overthrown in like manner, may it be ſaid of all the Kings and Queens which ſucceeded, concerning whom any Queſtion of Legitimation was raiſed; as for Example, *John* of *Gaunt*, the fourth Son of *Edward* the Third, becauſe he was a great favourer of the *Wicklenites*, who were in thoſe days moſt Zealous Proteſtants, was ſo hated by the

Capet's Law not to be compared with the Law of *Edw.* the 3*d.*

the Bishops to whom the Doctrine of *Wickliff* was then terrible, that the then Bishop of *Winchester*, Confessor to his Mother Queen *Phillippa*, falsly slander'd him to make him Illegitimate; That he was the Son of a *Flemming*, and not of King *Edward*, though his Mother Queen *Phillippa* was the most virtuous Wife of a King that was then in the World, and to Illegitimate his Posterity by the Lady *Katherine Swinford*, who was a virtuous Lady, and not Prohibited by the Law of God to be Married; But yet never was Married to him by the Ceremony of a Priest or Temple, and by whom he had Issue *John* Duke of *Somerset*, *Thomas* Duke of *Exceter*, *Henry* Bishop of *Winchester* and Cardinal, and *Joan* a Daughter; which Daughter and all her Brethren, were sirnamed *Beaufort* from *Beaufort* a Castle which he had in *France*, where they were all Born, and in regard thereof bare the Portcullis of a Castle for the Cognizance of the Family; and these four Children, though they were Legitimated by Act of Parliament in the Twentieth year of King *Richard* the Second, and made capable of all Dignities; yet by Episcopal Power there was inserted (*Excepta dignitate Regali*) which did as much as lay in an Exception so much Illegitimate them to the Crown, that *Coke* says, *Part* 4. *fol.* 37. The best Title of *Henry* the Seventh (who derived himself from *John de Beaufort* Duke of *Somerset*, Son of *John* of *Gaunt* by the Lady *Katherine Swinford*) was by *Elizabeth* his Wife eldest Daughter of *Edward* the Fourth; which Episcopal Opinion of his would not have been taken for Law, if he had lived in the time of *H.* 7. himself who notwithstanding this Episcopal Illegitimation, assumed the Title of the House of *Lancaster*, as Legitimate by the Law of God, and descending from a Lady not Prohibited to have been Married to *John* of *Gaunt*, by the Law of God.

John of *Gaunt*, for favouring Protestants, falsly slandred by the Bishop of *Winchester* to be Illegitimate.

Henry the 7th, d riveth himself from *Katherine Swinford*, never Married by a Priest in a Temple.

Both *York* and *Lancaster* derive the Lines from Persons slander'd to be Illegitimate by Laws of Men, but made Legitimate by the Law of God.

In like manner the Lady *Elizabeth*, eldest Daughter to King *Edward* the Fourth by the Lady *Elizabeth Gray*, from the House of *York* claims was declared Illegitimate by *Richard* the Third; because as was alledged, *E.* 4. was præcontracted to the Lady *Lucy*, which Lady *Elizabeth* was her self likewise first promised in Marriage to the Daulphin of *France*, before she was Married to *H.* 7. yet was she Legitimate, and her Issue Legitimate by the Law of God, and succeeded United to the House of *Lancaster* to the Kingdom, according to the same Law.

The

The ſame hath been before mentioned of the Lady *Elizabeth More*, her Children by *Robert* the Second King of *Scotland* were Born before any Ceremonial Marriage of a Prieſt in a Temple; yet were they all Legitimate by the Moral Law of God, the eldeſt ſucceeded to the Crown. In like manner King *Edward* the Sixth was declared Illegitimate by the Pope, and the pretended Eccleſiaſtical Laws; but he was Legitimate by the Moral Law of God, and ſucceeded to the Crown accordingly.

Edward the Sixth Illigitimated by Papal Laws, but Legitimated by the Law of God.

Laſtly, Queen *Elizabeth* was not only declared Illegitimate, by the Pope, but by the Acts of Parliament of her own Father *H.* 8. which is above any Declaration or Proclamation of a Privy Council; yet no true Proteſtant doubts but ſhe was Legitimate by Moral Law of God, which is above all Laws, and happily ſucceeded to the Crown, according to the Law of God, to the Comfort of all Proteſtants.

Queen *Elizabeth* Illegitimated by Papal Laws and Act of Parliament, but Legitimated by the Law of God.

From which Examples and Reaſons appears the truth of the *Theſis* before laid down.

(1.) That the Legitimation and Succeſſion of Kings eldeſt Sons born of Women not Prohibited by the Moral Law of God, was never queſtioned by any Law, except that of Popes and Biſhops.

(2.) That Legitimate and lawful Heirs may be Born of unlawful Marriages.

(3.) That the Moral Law of God hath always been, and ſtill is the greateſt Security of Legitimation and Succeſſion to the Crown of *Great Britain*, and ought to be prefer'd above all Ceremonial Laws of Men.

(4.) Next to the Moral Law of God, the greateſt Humane Security of Legitimation and Succeſſion to the Crown, is either a general Act of Parliament, as this is conſtituting and aſcertaining the Heir by a General or Special Diſtinction or Deſcription, or when any doubt or danger ariſeth by Act of Parliament Declaratory of the Particular Succeſſor or Name.

That

That 'tis High Treaſon by this Statute for any Subject to ſlander the King's eldeſt Son with Illegitimacy.

Though Papal and Epiſcopal Canons have made their ordinary work to Illegitimate the moſt Sacred Perſons of Proteſtant Princes, who diſdain to buy their Mercenary Diſpenſations, Faculties, Licences, and Pardons of Popes, or Biſhops, and particularly the moſt Pious King *Edward* the Sixth, and Queen *Elizabeth*. And as is ſaid, *Jude* 8. *Defile the fleſh, deſpiſe Dominions, ſpeak evil of Dignities*; yet let them know, there is this Statute above all their Canons and Synods, will puniſh their wickedneſs if they preſume to Illegitimate any King of *England*, or his eldeſt Son, it ſeems on theſe Reaſons:

(1.) Becauſe this compaſſeth the Death of the King himſelf, his Father, for who deſtroys the Kings Armies or Fleets which ſhould defend him, compaſſes his Death; but *Non legiones non claſſes aque firma imperii Munimenta ac numeros Liberorum.* Not Legions nor Fleets equally defend a Kingdom as Children; And above all Children, the eldeſt Son. All which is more authentically expreſſed by a great King and Souldier, *Pſa.* 127. 3. *Lo Children are an heritage of the Lord, and the fruit of the womb is his reward, as arrows are in the hand of a mighty man, ſo are the Children of the youth, happy is the man who hath his quiver full of them, they ſhall not be aſhamed; but they ſhall ſpeak with the Enemies in the Gate.* And likewiſe as to the eldeſt Son, the Scripture it ſelf magnifies him as an high defence to the Father, as *Jacob* expreſſeth of his, *Gen.* 49. 3. *My firſt-born, my might, and the beginning of my ſtrength, the excellency of Dignity, and the excellency of Power.* And who hath Vindicated His Majeſtie's Honour and Safety in Wars abroad, and againſt Popiſh Plots, Aſſaſſinations, Piſtols, Poniards, and Poiſons at home with ſuch Fidelity, Affection, Zeal, Conſtancy, Vigillancy, and Valour as his eldeſt Son? And doth he not then who compaſſeth his Death, compaſs the Death of the King himſelf? And doth not he who ſlanders him to be Illegitimate, compaſs his Death?

(2.) Becauſe

(2.) Becauſe this expoſeth Majeſty, and the eldeſt Son likewiſe to contempt, by depriving both of the hopes of a Lineal Succeſſor. And this is complained of by no leſs a Prince than *Alexander* the Great, who chargeth his Army, as related in *Curtius*, p. 6. *Orbitas mea quod ſine Liberis ſum ſpernitur*; my being childleſs cauſeth your contempt of me; which want of Children inheritable, put him in the ſame condition of being deſpiſed, as was he who ſaid, *Iſa.* 56. 3. *I am a dry Tree:* And the want of a Son capable to ſucceed him was the Ruine of ſo great a Monarch, his Mother, Houſe and Empire, his Enemies Poiſoning him in the flower of his Age ſecurely, as knowing he could leave no Son of himſelf to revenge his Death.

(3.) Becauſe who affirms the eldeſt Son Illegitimate, doth it to the intention to ſeize on his Inheritance, and who intend to ſeize on his Inheritance will compaſs his Death, as *Matth.* 21. 38. *They ſaid amongſt themſelves, This is the heir, come, let us kill him, and let us ſeize on his Inheritance. And they caught him, and caſt him out of the vineyard, and ſlew him.*

A Compariſon of the Popiſh Slanders of Illegitimation againſt Queen Elizabeth, *and the King's eldeſt Son.*

Queen *Elizabeth* was not only declared and proclaimed Illegitimate by the Pope's Divinity, but the Popiſh Party ſo far misinformed her own Father *H.* 8. in Matters of Law, and over-wrought on the King as they compell'd him by wearineſs to reſt on Implicit Faith in them, and to declare his own Daughter Illegitimate; an Error which not only he, but many other Princes have been the more eaſily drawn into, in regard by the Subtlety of Eccleſiaſtical and Temporal Lawyers, the Laws of Marriage, Filiation, Aliment, and Succeſſion; and the Comments on them have been increaſed to ſo huge heaps, and confuſed Volumes, and ſo many Writers of contrary Religions and contrary Juriſdictions, have had their Power and Profit concerned in them, as is impoſſible for Princes (who have ſo many Affairs of State to look after beſides) to Read them over as long as they live, and ſuch faithful Proteſtant Subjects as have indeavoured humbly to repreſent the truth, as to the

the Law of God, and of the Land, have been by the ſame Popiſh Party not only intercepted, and Prohibited to Write or Publiſh any thing againſt, but ſo much as to diſpute the *Romiſh* as well as *Turkiſh* Alcoran of their Laws. One great Example of which appears in theſe two great Deſcendents of the Blood Royal, the Famous and Pious Queen *Elizabeth*, and the Valiant and Virtuous eldeſt Son of the King: To go on therefore in their Compariſon of Suffering wrongfully.

(1.) It may be obſerved, that Queen *Elizabeth* was a Proteſtant; and ſo is the Kings eldeſt Son a Proteſtant.

(2.) Her Proſecutors were Papiſts, ſo are the Proſecutors of the King's eldeſt Son Papiſts.

(3.) Papiſts laid Plots to Aſſaſſinate and Poiſon Queen *Elizabeth*; ſo have Papiſts laid Plots to Aſſaſſinate and Poiſon the King's eldeſt Son.

(4.) The final Cauſe why Papiſts would have deſtroyed Queen *Elizabeth*, was to ſeize on her Inheritance; ſo the final Cauſe why Papiſts would deſtroy the King's eldeſt Son, is to ſeize on his Inheritance.

(5.) Queen *Elizabeth* was Innocent; ſo is the King's eldeſt Son Innocent.

(6.) Queen *Elizabeth* was deprived of the help of a Mother by her Death; ſo is the King's eldeſt Son deprived of the help of a Mother by her Death.

(7.) Queen *Elizabeth* was deprived of the help of a Father by the unjuſt Proſecution of Papiſts; as appears 28 *H.* 8. *cap.* 7. by which Act ſhe is declared Illegitimate to all intents and purpoſes, and utterly foreclоſed, excluded, and barred to Claim, Challenge or Demand any Inheritance, as lawful Heir to the King her Father: And it is further Enacted, That it ſhall be High Treaſon ſo much as to call the ſaid Lady *Elizabeth* Legitimate; yea, the Act of Parliament is ſo furious againſt the poor Innocent Lady, as if they deſired to Deſtroy and Damn the Conſcience of all good Proteſtants at once, with hers and her; They Enact further, That it ſhall be High Treaſon to believe (Oh miſerable! Thought it ſelf is made High Treaſon) the Marriage of the Lady *Ann* with the King her Father, to be good, lawful, or not void. Let it be left to Supreme Authority to conſider how far the Papiſts have endeavour'd

to proceed in the ſame Nature againſt the King's eldeſt Son.

(8.) Queen *Elizabeth* might ſay as *David* ſaith, *Pſal.* 27. 10. *When my Father and my Mother forſake me, then the Lord will take me up*; ſo may the King's eldeſt Son ſay the ſame.

(9.) Queen *Elizabeth* notwithſtanding all this was Legitimate and lawful Heir of Blood by the Moral Law of God, and the Proteſtant Religion; and ſo is Recognized and acknowledged by Parliament, 1 *Eliz. cap.* 3. and accordingly God gave her the happy Succeſſion to the Kingdom; So the King's eldeſt Son by the Moral Law of God and the Proteſtant Religion, is Legitimate, and the next Lineal and Lawful *Heres Sanguinis*, Heir of Blood; for *Jus Sanguinis* is the Law of God and Nature; and *Jura Sanguinis* (as hath already been ſaid) *Nullo Jure Civili divini poſſunt.*

(10.) It was the Intereſt of Queen *Elizabeth* when ſhe obtained the Lawful Power to Maintain and Defend the Moral Law of God, and the Proteſtant Religion; So will it be the Intereſt of the King's eldeſt Son to uſe what lawful Power God gives him to Maintain and Defend the Moral Law of God and the Proteſtant Religion againſt Popiſh Ceremonial Laws, and Superſtitious Religions.

A Compariſon of the Popiſh Slanders of Illegitimation againſt King Edward *the Sixth*, *Queen* Elizabeth, *and the King's eldeſt Son. And the Sons and Daughters of the whole Proteſtant Clergy.*

This Slander againſt the Sons and Daughters of the Clergy could not have been raiſed without another Slander firſt raiſed againſt the Marriages of the Mothers---Both which are taken notice of by the Statute 5. & 6. *E.* 6. *cap.* 12. which Statute making firſt a recital of the *Stat.* 2. & 3. *E.* 6. 21. of Repeal of all Laws of Man againſt the Marriage of the Clergy, proceeds in theſe words, *viz.* Yet ſince the making of the ſaid Act divers evil-diſpoſed Perſons taking occaſion of certain words and Sentences in the ſaid Act comprized, have and do untruly and very Slanderouſly report of Prieſts Matrimony, ſaying, That the ſame Statute is but a Permiſſion of Prieſts Matrimony, as Uſury and other unlawful things be now permitted for the eſchewing

eſchewing of greater inconvenience and Evils; ſo that thereby the lawful Matrimony of Prieſts in the opinion of many, and the Children Procreate and Born in ſuch lawful Matrimony, rather be of the greater number of the King's Subjects accounted as Baſtards than Lawfully Born, to the great Slander, Peril, and Diſheriſon of ſuch Children, which untrue ſlanderous report of Holy Matrimony doth not only redound to the high diſhonour of Almighty God; but alſo to the King's Majeſties diſhonour, and the High Court of Parliament, and the Learned Clergy of this Realm; who have determined the ſame to be moſt lawful by the Law of God in their Convocation, as well by the Common conſent as by the Subſcription of their Hands; and that moſt of all is to be lamented through ſuch uncomely Railings of Matrimony, and ſlanderous Reproaches of the Clergy, the Word of God is not heard with Reverence, followed with Diligence, the Godly proceeding of the King's Majeſty not received with due Obedience, *&c.*

Banns required to the Marriage of the Clergy.

Provided always, That this Act, nor any thing therein contained, ſhall extend to give Liberty to any Perſon to Marry without Asking in the Church, or without Ceremonies, according to the Book of Common Prayer and Adminiſtration of the Sacraments, nor ſhall make any ſuch Matrimony already made, or hereafter to be made good, which are Prohibited by the Law of God for any other cauſe. The Proteſtant Clergy by theſe Acts thought themſelves as ſecure as they do now. But Queen *Mary* immediatly on King *Edward*'s Death repealed this Law, and made all the Married Clergy, their Wives, and Children, Rogues, Whores, and Baſtards.

From whence may be obſerved, (1.) That a Marriage and Legitimation, which is lawful by the Law of God, may be wickedly Slandered by Papiſts, and by Papal and Epiſcopal Laws to be unlawful.

(2.) It hath been already ſhewn, that the Marriages of the Lady Mothers of King *Edward* the Sixth, and of Queen *Elizabeth*, and of the King's eldeſt Son, and the Legitimation of Children, were and are lawful by the Moral Law of God; but the ſame have been Slandered, and ſtill are, by the virulent Tongues of Papiſts.

(3.) That theſe wicked Slanders of the Legitimation of the King's eldeſt Son, do produce not only the ſame evil Effects

which the Statute declares to insue from the Slander of the Legitimation of the Sons of the Clergy; but greater and more dangerous.

(4.) That the final Cause why the Papists and their Laws Slander the Legitimation of the King's eldest Son, and of all the Sons of the Protestant Clergy, is the same; which is because they would seize on their Inheritance or Estate, and divide the Spoil amongst the Papists.

(5.) It is well known that the Inheritances and Estates of the Descendents of the Protestant Spirituallity and Clergy (in which Body are included all Spiritual Persons, Doctors of the Civil Law, exercising Spiritual Jurisdiction, Church-men, Ministers, all persons within Orders) are great and numerous through the Three Kingdoms, who will all Suffer, if a relapse to Popery.

(6.) That their Wives and their Descendents which have Married, have been obnoxious ever since the Time of Reformation; the first to Confiscation of their Dowers, Jointures, and Thirds; The other to Illegitimation, and thereon Confiscation of their Inheritances, Lands and Goods. The Law which forbid the Clergy to Marry, was made by Pope *Nicholas* the First, to wicked intents, which have been before already shewn; the Clergy, and their Wives and Children, are likewise left obnoxious to the same by the *Proviso* mentioned, which requires Banns to make lawful the Marriage of the Clergy; but they usually have none, but are Married by Licences, which makes them likewise obnoxious to the very Letter of the Act; which if there should happen a Papist Successor, he may take advantage thereof without a Repeal, or Repeal the Act, and so take advantage either way, which he will. Let not the Protestant Clergy therefore, nor the Bishops be deceived, or vainly flatter themselves that they can compound or lay the Obligation of an Oath, or an Act of Parliament on a Papist Successor if any happen to be; nor think he will lose so infinite heaps of Treasures, as this point of the Marriage of the Clergy, and the Illegitimation of their Descendents, will by Confiscations of all the Jointures, Dowers, Thirds of all the Archbishops, Bishops, and inferiour Clergies Wives, and of the Successions of their Posterities in the Three Kingdoms, will bring into his Treasury; Therefore certainly if a Papist

Successor

Succeſſor happen, there will be no living for a Married Clergyman in *England*, it will be Hereſie ſufficient to Burn him if he is Married, and a cauſe ſufficient will be his Eſtate; and for Proviſion, his Wife muſt expect none; unleſs like the *Indian* Wife, ſhe Burn with him, in hope to find it in another World. They need look no further for an Example than of Queen *Mary*; who was a Papiſt Succeſſor to the Proteſtant Act of King *Edward* her Brother; who though he confirmed the Marriages of the Clergy, and the Legitimation of their Children by two Acts of Parliament, left in their higheſt Vigour and Power, and though ſhe had ſolemnly promiſed the Proteſtants, without whoſe help, ſhe had not probably come to the Throne, that they ſhould injoy Liberty of Conſcience; yet as ſoon as ever ſhe obtained the Kingdom, ſhe repealed her Brothers two Acts, and made Whores of the Wives, and Baſtards of the Children of all the Proteſtant Clergy Married, Burnt them, and Confiſcated their Eſtates. And that Pious Martyr Archbiſhop *Cranmer*, who was Married, was Cruelly Burnt amongſt the reſt.

Queen *Mary* Illegitimated and Deſtroyed all the Wives and Children of the Proteſtant Clergy, notwithſtanding they were Legitimated by Act of Parliament.

(7.) There is no way to preſerve the Marriages and Legitimations of the Proteſtant Clergy, & their Wives and Children, from the deſtruction of a Papiſt Succeſſor; but to have Protection from a Proteſtant Succeſſor of the Crown, and to caſt off this Papal Doctrine of Ceremonial Marriage, and to teach the truth of Marriage according to the Moral Law of God, which is the true *Jus Corona*, as hath been already ſhewn, and makes the eldeſt Son of a Proteſtant King, and himſelf a Proteſtant to be of the ſame Intereſt with the Sons of a Proteſtant Clergy, and to ingage him by God's help to be his Inſtrument to defend them and the Proteſtant Religion, Liberty and Propriety to the Glory of God, and Comfort of the People: Can therefore any of the Proteſtant Clergy be ſo imprudent as in their Doctrine to deſtroy the Holy, Juſt, True, Ancient, Eternal, and Immutable Moral Law of God of Marriage and Legitimation, to bring in the Unclean, Adulterous, Spurious, Illegitimate, Injuſt, Lying, Upſtart, new-fangled, Ceremonial Laws of Priapuſſes and Popes; and not underſtand they thereby Slander their own Mothers and Wives to be Whores, their Daughters to be Baſtards, themſelves and all their Sons, to be Sons of Whores and Baſtards.

Can

Can they be ſo inconſiderate, as to imagine that any Slander they ſhall raiſe againſt the Marriages of the Lady Mothers, of Queen *Elizabeth*, King *Edward* or the King's eldeſt Son, or the Legitimations of Queen *Elizabeth* her ſelf, King *Edward*, or the King's eldeſt Son, or againſt the *Jus Coronæ*, and this Act of Parliament of 25 *E.* 3. *Cap.* 2. *De Prodactionibus*, as not to underſtand the ſame Slanders Militate againſt the Marriages and Legitimations of themſelves, their own Mothers, Wives, and Children; or not to know what pretence or Power they put into the hands of Popes and Biſhops, to diſinherit and diſpoſe of the Succeſſors and Succeſſion of the Crown, they give them a greater Power to diſinherit and diſpoſe at will of their own Inheritances, Wives, and Children, and by forſaking the Moral Law of God, of Marriages and Legitimations, and Idozing the Ceremonial Laws, Papal or Epiſcopal, drive themſelves into this inevitable *Dilemma*, either to fall into the hands of a Papiſt Succeſſor, who will aſſuredly deſtroy all Married Prieſts and Eccleſiaſticks, their Wives, and Children, and Succeſſors, and make a prey of all they have, or to fall into hands of Juſtice, as the fruits of Folly and Treaſon, in ſlandering the right of a Proteſtant Succeſſor.

Of the Inſolent Abſurdity of Popiſh Laws, diſinheriting the Lawful Sons of Kings by the Law of God, and Inheriting the Baſtards of Popes by the Law of the Devil.

The Scripture ſaith, *Galat.* 4. 7. *If a Son, then an Heir*; that is to ſay, to the Father who begot him, and not to a Fictitious Father. But the Popiſh Law, or what is above it the Practique, ſaith, Let none be an Heir of a Marriage not Contracted by a Prieſt in a Temple, except a Baſtard of a Pope; in which the Law of New *Rome* follows that of old Pagan *Rome*, which prohibited ſome kind of Women to the Subjects, but gave Authority to *Cæſar* to lye with what Women he would. And the like to the *Romiſh* falſe Prophet, is imitated by the falſe Prophet *Mahomet*, who in his *Alcheran* prohibited divers Women to the people but counterfeits God, ſpeaking to himſelf and ſaying, *But as for thee, O Prophet, thou may'ſt Lye with what Women thou wilt.* But in this the Pope goes beyond *Mahomet*; for the one Illegitimates no Children, nor diſinherits them; but the other all of

of Women not Churched, except his own. So Pope *Paul* the Fifth is related to have gotten out of his Leaden Bulls in a ſmall time Twenty hundred Thouſand Scutes of Gold, with all which he bought Lands for his Baſtards, and Pope *Sextus* the Fifth, being himſelf the Son of a Swineheard created his Baſtard a Cardinal, and gave him Ten Thouſand Crowns *per Annum* Revenue, and beſides Left at his Death Ten Millions of Treaſure. Another Pope gave his Baſtard the Kingdom of *Sicily*, and divers Principalities of *Italy*, and a vaſt heap of Treaſure. Pope *Alexander* the Sixth intended likewiſe to have given his Baſtard Son *Ceſar Borgia*, a Kingdom (whom though the verieſt Villain in the World) *Matchiavel* in his Treatiſe *De Principe*, propoſeth as the only Example for Kings to imitate. And by Probability a Kingdom he had obtained, had he not and his Father by the juſt Judgment of God, been Poiſoned by the ſame invenomed Wine at a Banquet; which they had prepared for others. All *Italy* is already over-ſtocked, and the Principallities thereof, and of other Catholick Countries, in time likely to be the Inheritances of none but of the Baſtards of Popes, and their Deſcendents Male or Female, under the Name of Nephews, and Neices, and by the Matches of Papal Deſcendents into Proteſtant Dominions, the like Evil may be juſtly feared, if not prevented; and what is worſe, a perpetuating thereby of their Superſtition from Generation to Generation.

The Scripture likewiſe ſaith, *Heb.* 13. 4. *Marriage is honourable in all, and the bed undefiled; but Whoremongers and Adulterers God ſhall Judge:* But the Popiſh Law ſaith, no Marriages are Honourable made by the Law of God, unleſs made by the Papal Laws, nor the Children; nor Chaſtity, nor the Bed undefiled, nor the Sons though of Kings, deſcending from the ſame, according to the Fountain of all Honour, the Immaculate Law of God. But the Baſtards of Popes, ſuch is the Impudence of the Whore of *Babylon*, to Prohibit Honour to all except her ſelf and her Brats. And as to theſe, Pope *Eugenius* the Second Uſurped the Authority when he pleaſed to create them Kings, Dukes, Earls, and Knights, and hath plagued and incumbred the World with fictitious Titles of Honour; but he vouchſafes the lawful Sons of Kings no better Title than Baſe Sons, except they receive from him the mark of the Beaſt. This

is

is not ſtrange that Swineheard Popes and their Trulls, ſhould not only not diſinherit nor degrade their own Blood, but extol the ſame above the Imperial: But 'tis ſtrange that any Chriſtian Emperors and Princes ſhould have ever been ſo Pope or Prieſt-Ridden, or ſo far have ſuffer'd them to have ſet their foot on their Necks, as to Kick from their Heads the Crowns and Honours of them and their Sons, for the Baſtards of Popes to inherit and to diſinherit their own, for which not only his Holineſs himſelf derides them, but they become a Deriſion to *Jews*, *Turks*, and all the World beſides, none of them being ſo fooliſh to admit the Doctrine of Devils, of Prohibiting Marriages not Prohibited by God amongſt them, or Illegitimating the Children of ſuch Marriages.

Laſtly, It is already proved, That Carnal Knowledge, Chaſtity, and Childbirth makes a Marriage, Lawful, Holy, and Indiſſoluble by the Law of God between all perſons not prohibited. And it is notorious, That Popes have kept openly their Whores and their Baſtards, and Rule what they call their Holy Church by them. So did *Theodora* the Impudent Concubine of the Duke of *Tuſcany* rule all *Rome*, and gave her Daughter *Marozia*, as wicked a Queen as her Mother to be Concubine to Pope *Sergius* the Third, of whom he begot him who was afterwards his Baſtard Pope *John* the Twelfth, the Mother *Marozia* poiſoned Pope *Leo* 6. and Pope *Stephen* 7. And got her Baſtard Boy to be Pope *John* the Twelfth. Pope *John* the Thirteenth was depoſed in Council, *Anno* 961; for abuſing his Father's Concubines, for Gelding ſome Men, and putting out the Eyes of others, for Drinking a health to the Devil, *&c.* Pope *Clement* the Fifth was a Common Fornicator; and it is Notorious, That all Popes are Panders-General of all the Stews and Houſes of Fornication in *Rome*, and fill their Treaſuries with the hires of Whores. And are theſe fit Fellows to make Marriages Holy, or to make Laws to overthrow God's Holy Ordinance, and diſpoſe thereby of the Succeſſion of Proteſtant Kingdoms?

Lib. III. Chap. II.

Whether Neceſſary in the preſent Juncture of Affairs, for the King and Parliament to declare a Proteſtant Succeſſor to the Three Kingdoms of England, Scotland *and* Ireland ?

TO prepare which Queſtion for the Conſideration of Supream Authority, it will be neceſſary firſt to recite the Objections which are made for the Negative; And then the Reaſons which are brought for the Affirmative.

Object. 1. *Declaring a Succeſſor by the King and Parliament, makes the Kingdom Elective, and not Hereditary.*

Anſw. 'Tis acknowledged, if the Declaration were to be by the Parliament Sole without the King, it might poſſible make a Kingdom Elective; but where by Law the King hath a Negative, and the Declaration is not made without his Conſent, it is otherwiſe; for it is ſufficient to make a Kingdom Hereditary, if the Law make it deſcendible to the King's Heirs, in Caſe it be not otherwiſe by the King himſelf and Parliament actually diſpoſed of, which is ſeldom done, and in Caſes of Neceſſity. But yet are they not diſabled of the Power to do it when they think neceſſary, as a private Inheritance doth not therefore ceaſe to be Hereditary, becauſe the Owner hath Power to Give, Sell, Alien, or otherwiſe diſpoſe of it; 'tis ſufficient if by Law it deſcend to his own Heirs, unleſs he Actually happen according to Law to diſpoſe of it from them.

Obj. 2. *Declarations by Act of Parliament are in vain, Becauſe Acts of Precedent Parliaments cannot bind the Power of a ſubſequent Parliament, which is ſhewn by divers Examples.* Cok. 4 *Part. fol.* 42. *And* Grotius *ſpeaks to the ſame intent, That Kings Predeceſſors cannot bind Kings Succeſſors.* Eſt autem cauſa Succeſſionis non ſubjecta Regi nunc regnanti, quod inde apparet quod Rex nunc regnans nulla lege obligare poteſt Succeſſorem: Succeſſio enim Imperii non eſt de Jure Imperii, ac proinde manſit in ſtatu naturali quo nulla erat Juriſdictio, Grot. de Jure Bell. & Pacis lib. 2. cap. 7. p. 171. *That a cauſe of Succeſſion is not ſubject to the King now Reigning, appears from this, that a King now Reigning can by no Law bind his Succeſſor; for the Succeſſion to Empire is not of the Right of Empire. But the ſame remains in the ſtate of Nature, wherein there was no Juriſdiction.*

Anſw. Though a King and Parliament preſent, by declaring a Succeſſor, cannot bind a Parliament future, but they may again Repeal or Abrogate ſuch preſent Act of Declaration; yet doth it not follow that the preſent Act of Declaration is vain, and of no uſe.

For firſt, Then by the ſame Reaſon, it might be ſaid that *Magna Charta*, and the *Petition of Right*, And all the Acts of Parliament we have are vain and of no uſe, becauſe future Parliaments have Power to repeal them; notwithſtanding which it is manifeſt ſuch an Act of Declaration would be of great Uſe and Benefit.

Secondly, An Act though repealable, is not vain, becauſe ſuch an Act cannot paſs without the Major number of Votes, which will be an Incouragement to the *major* number to continue their indeavour to preſerve; And a Diſcouragement to the *minor* part in another Parliament to attempt to repeal.

Thirdly, Becauſe ſucceeding Parliaments have a Reverence to preceding, and though they have Power to repeal, yet do they not uſe to repeal to the utmoſt of their Power, nor can a former Act be repealed but by another Parliament; which if a Proteſtant Succeſſor is Declared, muſt be called by him, and he hath then a ſufficient Legal Power to Exclude ſo far Papiſts from

from Elections of Members of Parliament, as probably they will have no Power to repeal former Proteſtant Acts.

Fourthly, Subſequent Parliaments cannot repeal the Act of a Precedent *quoad præterita*; for which reaſon the whole People will act with far greater Courage both in Peace and War, in Execution of whatſoever they have a ſtanding Act of Parliament to protect them, than where there is none.

Fifthly, Such an Act doth leave the Succeſſor and his Parliament in a Poſture and Poſſeſſion of Arms Lawfully to defend his own Right and the Proteſtant Religion, both againſt Secret Maſſacres, and Open Rebellions and Invaſions by Papiſts.

Object. 3. *Acts of Parliament cannot bind the Power of the Sword, or Armies in the Field.*

Anſw. Though they cannot bind ſuch as are Actually Convented without raiſing other Armies againſt them; yet they may take ways both to prevent their Convention, and to raiſe other Armies againſt them, if Convenient, and the Succeſs muſt be left to God.

Prevents, though it binds not the Power of the Sword.

Object. 4. *That a Succeſſor Declared, may prove Rebellious or Diſobedient.*

Declaring incites not a Lineal, but a Collateral Heir to Rebel: and, not an eldeſt Son, but a younger wrongfully preſent before him.

Anſw. This Objection is made, 28 *H.* 8. *cap.* 7. But it makes no Danger of it, except only in Caſe it ſhould happen to be of a Collateral Heir, when the King ſhould have no Lineal Heir of his Body. Concerning which Collateral Heir only, and not his Lineal, Theſe are the words of the Statute by way of Petition from the Parliament to the King; *And if your Grace afore it may be certainly known whether ye ſhall have Heirs or no, ſhould ſuddenly name or declare any Perſon or Perſons to ſucceed after your Deceaſe, and for lack of Heirs of your Body lawfully begotten into the Royal Eſtate of the Imperial Crown of this Realm, then it is to be doubted that ſuch Perſons that ſhould be named might happen to take great heart and Courage, and by Preſumption fall into inobedience and Rebellion; by Occaſion of which Premiſſes, great Diviſions and Diſſentions may be, and is very likely to Ariſe and Spring in this Realm, to the great Peril and Deſtruction of us Your Majeſties moſt humble and obedient Subjects, and of all our Poſterities.*

Whereby it appears, This Statute is only afraid of Declaring Collateral Heirs, If there ſhould be no Lineal Heir of the Body, or they ſhould fail. In like manner Queen *Elizabeth* having no Lineal Heir of her Body, was afraid to declare the Collateral. But ſhe declared the Natural Heirs of her Body ſhould Succeed, as appears, 13 *Eliz.* 1. which are the next Lineal, and not Collateral Heirs. And the Example of Chriſtian Princes in like manner hath been never to Scruple the Natural affection of their own Natural eldeſt Sons, to declare them Succeſſor after their Death; for that gives them no Greater preſent Power than they had before. The Heir, as is ſaid, *Gal.* 4. 1. *Differeth nothing from a Servant.* So *Edward* the Third, did not doubt to Declare his Eldeſt Son, the Famous Black Prince, his Succeſſor, by the General name of his Eldeſt Son in this Statute, nor likewiſe by making him Prince of *Wales*, to declare him by name his Heir Apparent and Succeſſor; nor did he ever the leſs Truſt him with the Command of great Armies in *France*, with whom he was Victorious; yet did the Son ſo declared never preſume to any higher Title than Prince of *Wales*; nor Motto, than *Ich Dien*, I ſerve, as if he ſtudied how to teſtifie his Obedience to God and his Father, and to ſhew that the Heir differeth nothing from a Servant. In like manner did the Old *Roman* Emperors declare their Eldeſt Sons *Cæſars*, and *Principes Juventis*. The Modern Emperors theirs Kings of the *Romans*. The Kings of *England* theirs Princes of *Wales*. The Kings of *Scotland* theirs Princes of the *Scots*. The *French* Kings theirs Dauphins; with ſo little doubt of Danger thereby, that they rather look on the ſame as the greateſt Security of themſelves, their Families and Kingdoms, to have their Eldeſt Sons declared Succeſſors in their Life-time: but always as is ſaid, this is true, only where the Eldeſt Sons are declared, and not where contrary to the order of Nature Younger Sons or Collateral Heirs are prefer'd before them, or to diſherit them.

Object. 5. *The* Ottoman *Emperors never declare a Succeſſor.*

Anſw. They are ill Preſidents to be followed; for the not declaring of a Succeſſor, cauſeth all thoſe Bloody Butcheries of Fathers of their own Sons; And Brothers one of another, and

gives

gives the *Janizaries* Power to ſell the Empire to that Son or Brother who will give moſt Money for the ſame: which the Emperors would gladly reform if they were able, and declare their Succeſſors as other Princes do, were they not over-power'd by their own Slaves, as appears, *Turk. Hiſt.* 479. *Selymus*, a Younger Son of *Bajazet* the Second, was made by his Father Governor of the Kingdom of *Trapezond*, and Married without his Fathers liking the Daughter of *Mahometes* a mighty King of the *Tartars*, called *Precopenſes*. *Selymus*, by the aſſiſtance of his Father-in-Law, provided a great Fleet and Army Pretending but not Intending War on *Hungary*: *Bajazet* receiving Advertiſement of *Selymus* his Army, and that he had left *Trapezond*, and was come over into *Europe*; ſuſpecting his Deſign, notwithſtanding his Pretences to be againſt himſelf; yet not ſeeming to take notice thereof, ſends Embaſſadors to diſſwade him from the *Hungarian* War, and to perſwade him to return peaceably to his former Government; but without effect; for he continues his March onwards toward his Father. In the mean time, *Bajazet* moved the rather with the fear of *Selymus*, reſolved on that which he had long time in his Mind deeply Conſider'd, in regard he was aged and ſickly, to reſign the Empire to *Achomates* his eldeſt Son, and propoſeth the ſame to the Soldiers; but they, being Corrupted before with Money by *Selymus*, Cunningly ſeeming to commend *Achomates*; yet would neither yield that *Bajazet* ſhould reſign or nominate him for his Succeſſor: And the chief Reaſons they alleadged were, That the ſame was neither according to the Cuſtom of the *Ottoman* Kings, nor for the behoof of the Men of War, who ſhould thereby be defrauded of the Rewards uſually granted unto them during the time of vacancy of the Empire ariſing from the Spoil; taking of them who are of Religions different from the *Turks*; for it is a Cuſtom, that immediately on the Death of the *Turkiſh* Emperors, all the Jews and Chriſtians which dwell at *Conſtantinople*, *Pera*, *Hadrianople*, *Theſſalonica* and *Pruſa*; eſpecially Merchants Expoſed unto the Injuries of the *Turks*, are by the *Janizaries*, and other Soldiers of the Court, ſpoiled of all their Wares and Goods, and became unto them a Prey: neither will they give their Oath of Allegiance unto the new Emperor, until he grant them their Prey, and Swear by his Head to Pardon all their Outrages before Committed.

The *Ottoman* Emperors why they declared no Succeſſors.

mitted. When *Bajazet* saw his Men of War generally to oppose themselves against the Nomination of his Successor, he tryed what Money would do with them; and promise them Five hundred Thousand Duckets, if they would stand favourable to *Achomates*, and accept him for their Soveraign, but he could not move them, for they assured themselves of greater Rewards in Pay and Plunder from *Selymus*. So with Grief and Patience he put up the Matter; hoping for a fitter Opportunity to effect what he desired. *Selymus* in the mean time under divers pretences marcheth on towards his Father; and Corrupted the greatest part of his Council with Money and great Promises to betray him, and advance *Selymus* to the Empire, only *Cherseogleson* an old faithful *Bassa*, adviseth *Bajazet* to Chastise the Rebellion of his unnatural younger Son, and to give him Battel; wherein *Selymus* was overthrown, and the greatest part of his Army Slain. *Achomates* hearing of all the trouble had happened between his Father and Brother, *Selymus* writes to him, desiring him to dispatch his long Determin'd and Promised Resignation of the Empire. *Bajazet* of himself still continued desirous of the Translating the Empire to *Achomates*, and making no great Secret of it, Commanded Galleys to be provided to Transport *Achomates* for that end from *Scutari*, where he then was, to *Constantinople*, but the *Bassa*'s and Souldiers Corrupted by *Selymus*'s Money, would not suffer him; whereupon he writes to *Achomates* how the matter stood, and that he should therefore return from *Scutari* to his old Charge of *Amasia*, until he might with bounty win the Minds of the Souldiers and great Men, to effect his advancement with less Danger. *Achomates* thus deceived of his hopes, Complained of his Father how he had deceived him, and made him a By-word and Laughing-stock to the World, and meditating either Revenge or Defence against his Brother, raiseth an Army, and on Contumacy when Commanded to Disband, is by the Incitation of *Selymus* with his Party proclaimed Traitor by his Father, and *Bajazet* is so over-perswaded by the Conspirators, That he sends home for his younger traiterous Son *Selymus*, Pardons him and makes him General of his Armies, against *Achomates* the elder Son. *Selymus* having received the Army, they Corrupted by him, Proclaim him Emperor. *Selymus* thereupon Poisons his Aged Father *Bajazet*, being

being almost Fourscore years of Age, and Murders his Brothers and Five of his eldest Brother's Sons. From whence may be observed.

(1.) The Great Error of *Bajazet*, who gave his younger Son *Selymus* a Kingdom, and so great Power with it, that he was able to be a Competitor against his eldest Son, and to raise a Rebellion against himself; which is Inconsistent with the Right of Primogeniture, and Divides the Empire into many Empires.

(2.) That Excessive Treasure given to a younger Brother, gives him Power to Corrupt both the Council and Army of his Father, who gave it him.

(3.) *Bajazet* by setting the younger Son in Contention with the eldest, he lost the Fidelity of both, and was destroyed between them.

(4.) He did very imprudently to promise his eldest Son the Resignation of the Empire, and ought only to have declared him Successor after his Death; but more Imprudenely to break his Promise to him, and thereby to Expose him a Publick Laughing-stock to the World, and a certain mark to be Murdered by his Brother *Selymus*, unless he took Arms in his own Defence to prevent it.

1 *Bajazet* by preferring his younger Son before his eldest, exposed him to be Murdered unless he took Arms in defence of his Life.

(5.) That by probability, if he could have effected the Declaring of his eldest Son Successor, and given only Moderate Portions to his younger Sons, as the *Chynoys* and *Æthiopians* Emperors gives theirs, such miserable Murders might not have fallen on himself, his Sons and Nephews. The like Destruction is before observed to have fallen on the younger Sons of *Jehosaphat*, by his leaving them overmuch Treasures and fenced Cities, to the Diminution and Power of the eldest Son *Joram*. 2 *Chron.* 21. 1, 2, 3, 4.

Object. 6. *Queen* Elizabeth *Refused to Declare a Successor.*

Q. *Eliz.* why she refused to declare a Successor.

Osborne saith, The proposing any thing of Declaring a Successor was so ingrateful to Queen *Elizabeth*, that the moving of the same cost *Piggo* and *Wentworth* their Liberty, though they proposed it in Parliament, and others Dearer: what were her Reasons against it, may be partly drawn from *Buchanan*, *Lib.* 17. *p.* 602. who saith, on an Embassy sent from *Scotland* to

to her, to desire she would Declare *Mary* Queen of *Scots* Successor to the Kingdom of *England*; to which he saith, Queen *Elizabeth*, p. 606. answered to this Effect:

There are many Reasons, saith she, *draw me away from this Transaction.*

Primum quod non ignorem quam sit periculosum hanc movere camarimam ac jure mihi semper abstinuisse videor ne jus Regni in disceptationem vocarem: Toties enim jam Sermonibus multorum Jactata est Controversia de Matrimonio justo deq; nothis & Legitimis Liberis, dum pro ingenio quisq; aut huic aut illi parti studet, ut & ego ipsa hactenus ob has Disputationes ad nubendum fuerim Cunctatior, *&c.*

First, I am not Ignorant how dangerous it is to move this Contention, and I seem to my self most Justly to abstain from Calling a Kingdom in Possession into Dispute concerning the Right; for it is so often already Controverted what is Lawful Matrimony, who are Legitimate, and who are Illegitimate Children, according to every man's Opinion, and as he favours this or that Party, That I my self by Reason of these Disputes, have been hitherto more slow to Marry; once when I Publickly received the Crown, I was Married to my Kingdom, and as a pledge of which I always wear this Ring: And howsoever these Affairs stand, I will as long as I live be Queen of England; *when I am dead, let who hath the best Right be my Successor. If your Queen is she, I will no way be against her; if another hath Right, I will not do him wrong: If there is a Law against your Queen, it is unknown to me; for I do not make willingly any curious Inquisition after this matter: But if there is any such Law, I took an Oath when I took the Kingdom, that I will not Change my Subjects Laws without their assent. But as to what you have alleadged in the second place, That this Declaring a Successor will contract a straighter Friendship between us, I rather fear it will sow hatred; for do you think that I shall take any Delight to have my Funeral prepared always set before me? It is a Peculiar of Kings, that they have no friendly mind to Children, who by Birth-right claim to be their Successors when they are dead. Of what mind was* Charles *the Seventh the* French *King, against* Lewis *the Eleventh, and he against* Charles *the Eighth, or* Francis

lately

lately againſt Henry? *Of what mind therefore is it likely I ſhall be againſt my Neighbour, when once Declared my Succeſſor? To this may be added what I think of very great weight, I know the Peoples inconſtancy; I know how full they are of the preſent ſtate of things; I know what prying eyes they have into the next Succeſſor; I know it is natural for more to adore the Riſing than the Setting Sun; And, to omit other Examples, I have ſeen enough in my own Time, when my Siſter* Mary *held the Kingdom, what Prayers did they make to ſee me ſet in her Throne? With what eagerneſs were my Concerns carried on; neither am Ignorant to undergo what dangers they would have hazarded, if I would have joyned with them according to their deſire: But now perhaps the ſame Men have not the ſame Mind towards me, Like Children who in ſleep rejoyce for Apples off'red them in a Dream, and preſently awaked in the Morning, when deceived in their hopes, Change their Joy into Weeping. So they who with great Good will applied to me while I was called* Elizabeth; *and if I beheld any with a more ſmiling Countenance, they forthwith thought with themſelves, that as ſoon as I obtained the Kingdom, they ſhould be rewarded rather according to the meaſure of their Deſires, than of the good they had done me; but now when the Event anſwers not their Expectation, many of them would be ready to Change to any ſtate of things, ſo they might but gain a better fortune: For no Riches of any Prince though never ſo great, are ſufficient to ſatisfie the inſatiable deſires of Men. Now if the affections of our People will Languiſh, either for Moderate gifts, or any other Light cauſe, what will ſuch Malevalents do, if they have a certain Succeſſor, to whom to carry their grievances, or go themſelves, when they are angry? In what Danger do you think I ſhall be near ſo Potent a Prince my Succeſſor, to whom how much ſtrength I add, ſo much I take from my own Security. This Danger by no Cautions or Bonds of Laws can be averted, neither will Princes who fail of their hopes of a Kingdom, eaſily contain themſelves within the Bounds of Right and Equity. And for my own Part, if the world were certain of my Succeſſor, I ſhall never think my Affairs in Safety.*

The Dangerous Riſing Sun is only a younger Brother, or a Collateral Heir.

We ſee here the very Conſiderations we are now on, of Declaring a Succeſſor, is in Debate by Embaſſador between theſe two great Queens, *Elizabeth* of *England*, and

Mary of *Scotland*. One the Head of the Proteſtants; the other of the Papiſts in their two Kingdoms. Queen *Elizabeth* was the Lineal Heir to the Kingdom of *England* to the laſt Poſſeſſor; Queen *Mary* derived her ſelf to be the Collateral. Queen *Elizabeth*, as it is before mentioned, had been Declared Illegitimate by the Pope and Popiſh Laws and Canons, and by her own Father; And a Popiſh Act of Parliament ſhe was not only Declared Illegitimate, but the Marriage of the Lady *Ann* her Mother to her Father, to be void; with the Penalty of High Treaſon, added on any who ſhould affirm Contrary to the firſt, or believe Contrary to the latter.

(1.) Therefore it is to be obſerved, That Queen *Elizabeth* being a Proteſtant, thought it not wiſe or ſafe to Declare a Papiſt for her Succeſſor; yet ſhe after Declared King *James* her Son, who was a Proteſtant, her Succeſſor; and it pleaſed God to make him an Happy Inſtrument to Unite both Kingdoms in the Proteſtant Religion.

(2.) That ſhe being the Lineal Heir, thought it not wiſe or ſafe to Declare a Collateral Heir her Succeſſor in her own Lifetime. Therefore thought ſhe had a great Affection to make King *James*, who was her Godſon, her Succeſſor; yet ſhe forbare to Declare him ſo, till on her Death-Bed ſhe perceived her ſelf paſt all hopes of having Lineal Heirs of her own Body; but while there was a poſſibility, ſhe might, ſhe Declared by 13 *Eliz.* 1. They ſhould be her Succeſſor, and Enacts a Penalty of High Treaſon againſt thoſe who ſhould affirm the contrary.

(3.) That Queen *Elizabeth* doth not think it fit that her Legitimation ſhould be Judged by Popiſh Laws, as ſhe could expect no other would endeavour to be done, if ſhe permitted a Conteſt between her and a Papiſt. What? Shall a Virgin Queen be Judged by Laws, which, as is already ſhewn, came from the Prieſts of *Priapus* and *Venus*? Shall a Proteſtant Queen be Judged and Shot to Death by the Cannons and Conſtitutions of the Strumpets *Theodora Marozia*, and the Whore of *Babylon*? No, ſhe was Judged Legitimate by the Holy Moral Law of God, and the Proteſtant Religion, to be Succeſſor to her Natural Father; and though he forſook her, God took her

her up, and by his assistance the Gates of Hell were not able to prevail against the truth of the same: And let any Papist now, if he can, shew any Reason or Scripture, why he should with foul mouth asperse the Legitimation of King *Edward* the Sixth, or Queen *Elizabeth*, or the Kings Eldest Son; or why the latter ought not to be Successor as well as was the former; and Print the same with his Name subscribed: And no question there are Protestants enough will answer him. Yea, let him prove, if he can, That 'tis not only the Greatest Honour to a Protestant Prince himself, but a great Mercy and Providence of God to a Protestant People, to offer them such a Prince whom he hath made Legitimate by his own Holy Law and the Protestant Religion, and permitted him to be Declared Illegitimate by the Papist unholy Law and Superstition, and thereby laid on him the highest Obligation of his own Interest to maintain the Holy Moral Law of God and Protestant Religion, against the Popish Ceremonial Laws and Superstition; and far worse it had been for the Protestants, if Queen *Elizabeth* had not been made Illegitimate by the Papists, then that she was.

The Interest of a Prince Legitimate by the Moral Law of God and the Protestant Religion, to maintain both against Popish Ceremony and Superstition.

To Conclude, a full answer hath been therefore already given the Objection, That Queen *Elizabeth* never refused to Declare a Protestant and Lineal Successor, but only such as were either Papist or Collateral.

Obj. 7. *A Protestant Successor will not be equal to Papists, who are not only a Considerable, but a great and potent Party of the People of the Three Kingdoms.*

Answ. This is fully answered already before, *Lib.* 2. *p.* 401, 402, 403, *&c.* where it is shewn to be the Interest of the Protestant Religion to abolish all Laws of Recusancy equally which are Penal to the Consciences either of Protestants or Papists, except as to Mass, Idols, and Popish Priests. This is likewise answered in the following Reasons, wherein it is shewn, That not only Protestants, but Papists themselves (except Popish Priests) may hope for greater Security and Happiness from a Protestant Successor, than they ever had or 'tis possible for them to have from Papist Predecessors or Successors; to which I therefore desire to refer.

Reaſons for Declaring a Proteſtant Succeſſor, by the King and Parliament.

HAving anſwered all Objections againſt Declaring of a Proteſtant Succeſſor, I ſhall now only add ſome few Reaſons for the ſame, ariſing from the Great and manifold Dangers cauſed by the Neglect.

1. Danger to the Conſcience of a Prince.

(1.) The firſt Danger is to the Conſcience of a Prince, when he ſhall give Account to God of the Neglect of ſo great a Duty to him, and ſo great a Truſt repoſed in him by the People; as to which, There is none doubts but every private Father is by his Duty to God bound, while it ſhall pleaſe God to lend him Life and Health, and before Death with a ſudden Arreſt hurry him hence, to give an account of his Stewardſhip, to make Proviſion according to his Power for the leaving his Family in Peace after his Deceaſe; much more it is the Duty of all Princes who ought to be the Publick Father of their Countries, who have ſo great Account to Give; not only for their own Families, but for Nations and Kingdoms, and all the Wars, Murders, Maſſacres and Devaſtations which by their default ſhall happen after their Death. To provide, while God gives them Life and Health, for prevention of ſuch Calamities amongſt their People, and for the Peace of Succeſſion in the Government over them. And in the Statute of 35 *H.* 8. *cap.* 1. This great Truſt Repoſed in the King by the People, is expreſt a Chief Conſideration of Declaring a Succeſſor; and ſetling the Succeſſion of the Crown by King and Parliament, in theſe words in the Preamble of the Act, *viz.*

Foraſmuch as our moſt Dread Soveraign Lord the King, upon good and juſt Grounds and Cauſes, Intendeth by God's Grace to make a Voyage Royal in his moſt Royal Perſon into the Realm of France *againſt his ancient Enemy the* French *King, his Highneſs moſt Prudently and Wiſely Conſidering and Calling to his Remembrance how this Realm ſtandeth at this preſent time in the Caſe of Succeſſion, and poiſing and weighing further in himſelf the great Truſt and Confidence that his Loving Subjects have had, and have in him,* &c. *And to the Intent his Majeſtie's Diſpoſition and Mind therein ſhould*

be

be openly Declared and manifestly known and Notified, as well to the Lords Spiritual and Temporal, as to all other his Loving and Obedient Subjects of this Realm, to the Intent of their Assent and Consent, might appear to Concur with thus far as followeth, of his Majestie's Declaration in the behalf, and thereupon makes Provision for the Succession of the Crown in the same Act.

In like manner it is provided by the Law of *Persia*, as saith *Herod. Lib.*7. That whensoever the King goeth to War abroad, he ought first to Declare his Successor, that he may leave Peace at home.

2. Danger by the incertainty of the Laws of Succession of the Crown.

(2.) The Danger caused by Incertainty of the Laws of Succession of the Crown, (and that this is a Great Danger, and necessary to be Remedied by a Declaration by King and Parliament) appears likewise by the Preamble of the Statute of 25 *H.* 8. *cap.* 22. in these words, *viz.*

Wherefore we your said most humble and Obedient Subjects in this present Parliament Assembled, calling to our Remembrance the great Divisions which in time passed have been in this Realm, by reason of several Titles pretended to the Imperial Crown of the same, which sometime and for the most part insued, by Reason of Ambiguity and Doubts, then not so perfectly Declared, but that men might upon froward intents, expound them to every man's sinister Appetite and Affection after their Sons, Contrary to the Right Legalty of the Succession and Posterity of the Lawful Kings and Emperors of this Realm, whereby hath insued great Effusion and Destruction of man's Blood, as well of a great number of the Nobles, as of other Subjects, and especially Inheritors in the same, and the greatest occasion thereof hath been because no perfect and substantial Provision in Law hath been made within this Realm of it self, when Doubts and Questions have been moved and proponed of the Certainty and Legalty of the Succession and Posterity of the Crown.

By which Statute appears the Judgment of the King and Parliament to be, That the great incertainty of the Law in points of Succession of the Crown, was one great Cause of the great Mischiefs of effusion of Blood both of Nobles and Commons which insued thereby, and the fittest Remedy to be the Declaration of the Successor incertain by the King and Parliament; which is accordingly therefore done in the same Statute.

tute. And it likewiſe appears that the ſame Doubt in Law was raiſed then as to Succeſſion, which is now, Whether the King's Marriage and Iſſue by the Mother of Queen *Elizabeth* was Lawful and Legitimate, which is Declared by this Act of Parliament that it was. And *H.* there is firſt intendency there to Declared a Legitimation of the ſame Marriage with Queen *Ann*, the ſaid Mother of Queen *Elizabeth:* And that all the Iſſue had and procreate, or to be had procreate (without ſaying Lawfully) between the King and Queen *Ann*, ſhall be his Lawful Children, and be Inheritable to the Crown; Then is the Crown Declared to be to the King for Life, and the Remainder to be to the firſt Son of his Highneſs of his ſaid Lawful Wife Queen *Ann* begotten, and to the Heirs of the Body of the ſaid firſt Son Lawfully begotten; and for default of ſuch Iſſue, with divers Remainders over, and make it High Treaſon to ſlander the King's Marriage in prejudice of the Heirs of the ſame.

3. Danger of Arbitrary diſpoſing the Crown by *Rome* or *Canterbury*.

(3.) The other great Danger from the incertainty of the Laws of Succeſſion, beſides effuſion of Blood, which is the Arbitrary diſpoſing by Epiſcopal Sees whether of *Rome* or *Canterbury*, though only *Rome* named, unleſs a Succeſſor is Declared by the King and Parliament, is likewiſe mentioned in the ſaid Statute, 25 *H.* 8. *cap.* 22. in theſe words, *viz. By Reaſon whereof the Biſhop of* Rome, *and See Apoſtolick, Contrary to the great and inviolable Grants of Juriſdictions by God, immediately to Emperors, Kings and Princes in Succeſſion to their Heirs, hath Preſumed in time paſt to inveſt who ſhould pleaſe them to Inherit in other mens Kingdoms and Dominions; which thing we your moſt humble Subjects both Spiritual and Temporal, do moſt Abhor and Deteſt.*

4. Danger of Predominancy of Papal and Epiſcopal Laws of Marriage, above the Moral Law of God.

(4.) One great Cauſe of the incertainty of the Laws of Succeſſion of the Crown, is, That Papal and Epiſcopal Ceremonial Laws of Marriage, Filiation and Succeſſion, are tollerated in the Three Kingdoms, to Uſurp a Predomination, not only over the Law of the Land, but the Moral Law of God: It is therefore neceſſary to avoid the Danger mention'd, to proceed from the incertainty cauſed by Papal and Epiſcopal Laws, That a Declaration by King and Parliament be, Who ſhall be

be Succeſſor in Particular and by Name, which clears all Doubts, and is the higheſt Security under God, on which any Crown, or Succeſſion to it, can depend.

5. Danger to the King's Perſon, Line, and Houſe.

(5.) The not Declaring a Succeſſor, is Dangerous to the Perſon of the King and his Houſe; of which we need not look on any other Example than *Alexander* the Great, of whom *Juſtin*, *Lib.* 15. relates, That he being deſired to Declare a Succeſſor, though he had a Son called *Hercules*, and though his Wife *Roxana* were Great with Child, yet would he Declare neither; but Will'd, That he who was moſt worthy, ſhould Succeed; which was the ſame in effect, as if he had Will'd they ſhould after his Death deſtroy one another with Civil Wars, and his own Houſe amongſt them; for ſo they did: And *Caſſander*, one of his mean and not Chief Officers deſtroyed his Mother *Olympias*, and all his Kindred: Such was the Fate of ſo great a Monarch, who while alive thought the World too little; yet was he himſelf Poiſon'd, and when Dead, nor he, nor his Mother, nor his Children, nor any of his Kindred retained any Spot, but their Graves being all deſtroyed with him; of which there appears no ſecond Cauſe, but his Neglect to Declare his Son *Hercules* his Succeſſor, who might have been a Preſervative to him, according to *Tacitus*, *Pravas aliorum ſpes cohiberi ſi Succeſſor non in incerto.* The wicked hopes of Plots againſt the Poſſeſſor are Checkt if the Succeſſor is not incertain.

6. Danger of Lineal and Collateral Heirs to deſtroy one another.

(6.) The Danger of the Lineal and Collateral Heirs deſtroying one another, doth cauſe all thoſe Murthers, Poiſoning, Strangling, Burning out the Eyes, or perpetual Impriſonments of the Blood Royal of the *Turkiſh*, *Perſian*, *Æthiopian*, and other Eaſtern Kings and Emperors, but that they have no Parliaments Elected by the people to Declare their Succeſſor, and to Protect the Liberty, Propriety, and Lives of their younger Children by ſtanding Laws; but on the Death of the old Emperor, the Election, or rather Sale of the Empire to the New, is left to the Lawleſs will of the Prieſt or Soldier.

7.

(7.) The Danger if the King's Eldeſt Son ſhould die and leave Children in Minority of Guardians in Majority, of Contention

tention for the Crown between Nephews and Uncles: This Danger is not ſo great in *Scotland*, as in *England*; for there, as hath been already ſaid, as *Buchanan* mentions, their Ancient Act of Parliament Enacts, *Ut quemadmodum Regi maximus Natu filius in Regnum Succederet, ita filio ante Patrem Defuncto Nepos avo ſubrogaretur*: That as the Eldeſt Son of the King ſhould Succeed to him in the Kingdom; ſo the Son being Dead before his Father, the Nephew ſhould Succeed in his ſtead to his Grandfather. It hath been already before ſhewn, how dangerous Guardians Uncles are to Nephews in Minority; and if in Majority, all Hiſtories witneſs under how great incertainty the Law is in moſt Nations to determin the Queſtion, (which ought to be preferred, the Uncle or Nephew in Succeſſion to a Kingdom; that is to ſay, in ſuch Kingdoms who have no Parliaments Elected by the People to eſtabliſh the manner of Succeſſion) And how great Wars and Devaſtations have been made between Nephews and Uncles on the incertainty of the Law of the Country in that point. And though in Succeſſion to Common Inheritances in *England*, the Nephew is by Cuſtom preferred *Jure Repreſentationis* to the Uncle, and though my Lord *Coke* likewiſe in his Expoſition on the ſaid Statute of 25 *E* 3. *cap.* 2. *Coke* 3. *Part. fol.* 8. ſaith to be the *Fitz-Eigne*, the Eldeſt Son of the King within that Statute, it is not always neceſſary he ſhould be his firſt begotten Son: for the Second after the Death of the firſt begotten without Iſſue is *Fitz-Eigne*, with the Statute *Et ſic de cæteris*, which doth implicitly ſeem to affirm, That till the Iſſue of the Eldeſt Son fails, the ſecond Son ſhall not Succeed by this Statnte, which implicitly prefers the Nephews in Succeſſions before the Uncle, but he ſhewing no Authority therein, but his own, and that only implicit and not Expreſs; and the Common Law and Cuſtoms of the Crown being very incertain, obſcure, and as often broken as kept, when not Confirmed by Act of Parliament; And King *Edward* himſelf the Wiſe Author of this Act (when the Black Prince Died and left his Eldeſt Son *Richard* of *Bindeax*, who was after *R.* 2.) Doubting of the certainty of the Law, in the Point did, as the wiſeſt way, procure *Richard* to be Declared Succeſſor by Act of Parliament in his Life-time, to ſecure him againſt his Uncles.

The

The certainty of the Law of *England* therefore may be not without Cauſe doubted in this Point of Succeſſion between Nephew and Uncle, and Danger there may be, leſt the incertainty of the ſame, give the ſame Pretences to create Civil Wars here, as it doth in other Countries, unleſs prevented by an Act of Parliament, as in *Scotland*, *Ut filio ante patrem Defuncto Nepos Avo Subrogaretur.*

The Law of *England* not clear in point of Succeſſion of the Crown between Nephew and Uncle, where the Father dies before the Grandfather.

(8.) Danger if the Succeſſor aſſume the Crown without the Aſſent of the People by their Repreſentative in Parliament, the Right of a Succeſſor is not here Diſputed, nor the Law whether he is King before Coronation, or not until Contract with his Parliament, and Coronation received from them. Higheſt a Succeſſor can ſay, is only as *Paul* ſaith, 1 *Cor.* 10.23. *All things are lawful for me, but all things are not expedient: All things are lawful for me, but all things edifie not.* Though the manner whereby a Succeſſor aſcends the Throne may be lawful, yet may it not be Expedient; neither may it Edifie the Throne. *H.* 8. was a King of great Courage and Wiſdom, and doubted not the Right of him and his Poſterity to the Crown; Yea, though he had more than any other King, Power granted him by Act of Parliament, himſelf to Declare his own Succeſſor, either by his Letters Patents or laſt Will; yet he ſhewed therein his great Wiſdom and Moderation, and would not do it without Aſſent of his Subjects; as appears in the already mentioned Statute 35 *H.* 8. *cap.* 1. in theſe words, *viz.*

8. Danger without Aſſent of the People.

And albeit that the King's moſt Excellent Majeſty, for default of ſuch Heirs as are Inheritable by the ſaid Act, might by the Authority of the ſaid Act give and diſpoſe the ſaid Imperial Crown, and other the Premiſſes by his Letters Patents under his Great Seal, or by his Laſt Will in Writing, Signed with his moſt gracious Hand, to any Perſon or Perſons of ſuch Eſtate therein as ſhould pleaſe his Highneß to Limit and Appoint. Yet to the Intent that his Majeſtie's Diſpoſition and Mind therein ſhould be openly Declared, and Manifeſtly known and notified, as well to the Lords Spiritual and Temporal, as to all other his Loving and Obedient Subjects of this his Realm, to the intent that their ASSENT *and* CONSENT *might appear to Concur with thus far as followeth of his Majeſtie's Declaration in this behalf.*

For ſo Wiſe a King well know, that let the Right of a Succeſſor be what it will; yet if he loſe the Love of his People, which cannot be obtained without their Aſſent and Conſent, he loſeth the Chief Defence under God, of that, and all other Right he hath; if therefore a Succeſſor is Declared by Act of Parliament, ſo great a Danger is avoided of not having the Aſſent and Conſent of his Subjects; ſeeing ſuch an Act of Parliament cannot be without the Aſſent and Conſent of the major part of the People included in the plurality of Votes of their Repreſentative.

9. Danger of aſſuming the Crown by a Papiſt.

(9.) The next great Danger is, The aſſuming of the Crown by Force by a Papiſt Succeſſor; if not prevented by a Declaration of a Proteſtant Succeſſor, by the King and Parliament.

That a Papiſt Succeſſor is moſt Dangerous to all Lay-Papiſts themſelves, and that they may Live far more Happy under a Proteſtant, than one of their own Religion.

A Diſtinction ought to be made between Lay-Papiſts and Papiſt Prieſts.

Both *Religion*, *Juſtice*, and *Mercy*, ingage all thoſe who are affected with the leaſt of any of them, to put a great difference betwixt the Deceived, and Deceivers; and betwixt the Blind, and thoſe who miſlead them to fall into the Ditch. A Diſtinction is therefore neceſſary to be made by all Proteſtants between the Lay Papiſt, and the Papiſt Prieſt; *Mercy* is to be ſhewn the one, and *Juſtice* the other: And if this juſt Courſe had been uſed from the Beginning of the Reformation, that no Penal Statute had been made againſt the Lay-Papiſts, but only againſt the Papiſt Prieſts; No Biſhop *Bencroft* under pretence of maintaining the Dominicans againſt the Jeſuits, and Regulars againſt Seculars, had been able to maintain Legions of both in Secret to Deſtroy the Proteſtants in their own Land, nor under the blind name of Recuſants, to turn the edge of all the Penal Laws pretending to be made againſt Papiſts, to cut off the Proteſtants. And the Sacrament of the Paſchal Lamb to be a Deſtruction to the *Iſraelites*, and a Paſſover to the *Egyptians*; thoſe Penal Laws being purſued with the higheſt Rigour againſt the Proteſtants, but came not near the Papiſts Dwellings; or if they did, they took more eaſie Pardons from the Exchequer, than from the Pope. So if the late Act concerning

The Proteſtant cannot be ſecure, unleſs the Lay Papiſt be likewiſe ſecure from Penal Laws againſt Conſcience.

cerning Oaths and Sacraments, had been Reſtrained only to Papiſts; Proteſtants had not ſuffered in ſo high a Degree as now they do. But I paſs from what is paſt, to what is future, to ſhew what Miſchiefs the Papiſts themſelves are to expect from a Papiſt Succeſſor, and what benefit from a Proteſtant.

(1.) The firſt Miſchiefs they will meet with in a Papiſt Succeſſor, is a moſt miſerable one; take what Covenant, what Vow, what Promiſe, what Oath they can from him, yea, an Hundred Oaths, his Conſcience cannot be bound with any of them: and the Catholicks themſelves ſhall take as little hold of his Catholick Faith, as the moſt of thoſe whom they think or call Hereticks.

William the Conqueror a Papiſt King, forſwore himſelf to Papiſt Subjects.

As for Example: *William* the Conqueror was a Papiſt, and is mentioned *Dan. Hiſt.* 36. to get Aſſiſtance of the King of *France* (who was then young) in his Deſign for *England*, promiſed if he obtained the Kingdom, to hold it of him as he did his Dutchy of *Normandy*, and do him Homage for it, which would add a great Honour to that Crown. Then was he before-hand with Pope *Alexander*, to make Religion give Reputation to his Pretended Right, he promiſed likewiſe to hold it of the Apoſtolick See, if he prevailed in his Enterprize, whereupon the Pope ſent him a Banner of the Church, with an *Agnus* of Gold, and one of the hairs of Saint *Peter*: And he likewiſe by great Promiſes got his own Brother *Odo* Biſhop of *Baieux*, to furniſh him with Forty Ships for his Expedition. After *William* had with great difficulty got the Battel at *Haſtings*, wherein King *Herold* happen'd to be kill'd with an Arrow in his Eye, ſome of his Nobility with all their Power ſtrove to eſtabliſh *Edgar Atheling* the next of the Royal Iſſue in his Right to the Crown; but the falſe Biſhops rather bent to let in a Foreign Enemy, being fool'd by him with fair Promiſes, than to aſſiſt the Native Prince; and by their Example drew in the Nobility to truſt to his Perſonal Oath made at his Coronation, before the Altar of St. *Peter* to defend the Holy Church; that was the Papiſt Church and the Rectors, and to Govern the Univerſal People according to the Laws; but this Oath and his Promiſes, were as weak to bind him, as the ſingle hair of St. *Peter* he had got from the Pope; for as ſoon as he had Eſtabliſh'd himſelf, he was not ſuch a Fool to do Homage

for *England* to the *French* King, nor to hold the ſame of the Apoſtolick See, nor to defend the Biſhops and Abbots in their fat Biſhopricks and Abbies; but as *Cambden* ſaith, *He made ſuch clear work with them, that he did not leave one* Engliſh *Eccleſiaſtick whom he thruſt not out of his place, and fill'd their Rooms with* Erench *Sr. Johns.*

And for the *Engliſh* Nobility, he drove ſome to fly to *Scotland*, ſome to *Norway*, ſome to *Hungary*, and any other Places where they could be received, till in the end he had totally deſtroyed them, and filled their Places with *French Contes*; and to ſhew himſelf no partial Dealer with thoſe who would truſt his word, he ſpared not his own Brother *Odo*, the Biſhop of *Baieux*; but notwithſtanding the Forty Ships with which he had Supplied him, on promiſe of better dealing, he ſeized and Confiſcated all his Treaſure which he had, which was very great, and hoarded up with an Intention to have bought the Papacy. And it is no wonder if *mali Corvi malum ovum.* And he practiſed the ſame deceit againſt themſelves and their falſe Religion had taught him towards others; for let a Papiſt Prince ſwear never ſo many Oaths to Papiſts of his own Religion, and break them all, the ſame Religion fits him with Popes enough at his Elbow to Confeſs and Abſolve him inſtantly, or if he doubts his Trencher-Popes cannot do it, he can have for Money his Unholineſs himſelf to Abſolve him from any Oath, Covenant, or League with any other Papiſt Prince, whether of Peace or War; and how many Examples are there of the ſame? And more eaſily can he do it with his own Subjects; as *Dan. Hiſt. fol.* 143.

King *John* a Papiſt King, forſwore himſelf to Papiſt Subjects; being Abſolved from his Oath by the Pope.

King *John* for the Glory of God, and Emendation of the Kingdom in Parliament, makes Articles of Agreement between him and the Barons; wherein are Confirmed all the Laws and Liberties of the Kingdom, and Mutual Oaths taken on both ſides by the King and Barons, in Solemn manner for the Obſervation of the ſame Articles. The King likewiſe ſends his Letters Patents to all Sheriffs of the Kingdom to cauſe all Men of what degree ſoever within their ſeveral Shires to Swear to obſerve the Laws and Liberties thus granted by his Charter. There we ſee a Papiſt King agrees with Papiſt Subjects on Oath in the higheſt manner, and both the King and Barons, and the whole Body of the People of what degree ſoever, are ſolemnly

Sworn

Sworn before God. And the Laws and Liberties are likewise Confirmed by Act of Parliament.

But the next News in the History we hear of is, He hath some Papist evil Councellors, who tell him he was now a King without a Kingdom, a Lord without a Dominion, and a Subject to his Subjects; whereon this Papist King sends to the Pope, and by Bribery he Absolves the King from his Oath, Nullifies the Act of Parliament, and Excommunicates the Lords. Now therefore let it be shewn how these Papist Lords, being laid in the Pickle of Excommunication, and not having *Personam stand i in Judicio*, could have done to have bound the Conscience of their Papist King, to have performed to them his Contract, Covenant, League, and Oath, or let it be no wonder if Protestants are very fearful to have a Successor of such a Religion; or if they think that these Lords had not been more happy if they had had a Protestant King, or of any Religion which would have bound his Conscience to have kept his Word, and much more his Oath to his Subjects.

The Papist Lords grown Desperate of Right from their *English* Papist King, run into the other Extreme, and will Trust themselves to the Oath of a Foreign Papist King, seeing their own would not keep his, they send therefore over-Sea, and go in great hast to *Louys* the *French* Kings Son, to Sollicit him to take upon him the Crown of *England*, who is their *tres humble Serviteur*, and as ready to Swear to them, as they to him, and to make wise to them, that a *French* Oath was surer than an *English*; over therefore he comes to *England* in Person, with as great a Fleet and Army as the Power of *France* could make on so likely hopes of a Conquest, incouraged by so great a Power of the *English* Barons, who call'd them in, and joyned with them, and being Landed in *Kent*, in *May*, the Lords bring him to *London*, where he takes his Solemn Oath to Restore their Laws and Liberties, and recover their right for them. King *John*, who had first forsworn himself, was notwithstanding in the Field with another Army against King *Louys*, but fell into a Feaver and Died, or as some say, was poisoned; On his Death many of the *English* Lords hoping to find more Truth in the Son than in the Father, returned from *Louys* to their Native King, and suddenly Crowned *Henry* the Third, the eldest Son of King *John*, being then but Nine years old, in a great Parliament Assembled.

A *French* Oath pretended surer than an *English*.

Assembled at *Glocester*, 28 *Octob.* by which Parliament his Tutelage by Reason of his Minority, was Committed to the Great Marshal *William* Earl of *Pembrook*, a Man Eminent both in Courage and Council.

The Mother of *Henry* the 3*d.* pre-contracted when King *John* Married her.

And it is likewise to be noted, That this *Henry* was begotten by King *John* of *Isabel*, the Daughter and Heir of *Aymer* Earl of *Angolouleſm*, who was before the Marriage pre-contracted to *Hugh le Brun* Earl of *March*. So if the World had been so much given to slander the Legitimation of the King's Eldest Son, as it is now, here had been a greater Exception against the Succession of the Crown to him than can be now in the least shadow pretended; for *Isabel* being pre-contracted to a former Man, was a Woman Prohibited by the Law of God to be Contracted or Married by another Man. Yet did neither this, nor his Minority, nor the amazing Danger of a Foreign Enemy Landed, assisted by the Native Nobles possessed of the Royal City, and entred into the Bowels of the Kingdom, Deter this Wise and Noble Parliament for making use of the Coronation of the King's Eldest Son, as the best Remedy against it, and to Commit his Guardianship to a Person of Courage and Council; they Succeeded accordingly, for *Louys* was beaten in a Battel at *Lincoln* by the Protector; and sending back for Recruits into *France*, which were with great Expedition there provided, and sent with a Mighty Fleet, which Fleet was likewise met and beaten by the *English* Fleet at Sea, and the Army therein Vanquished by God's great Providence; which News coming to the Ears of *Louys*, made him hopeless of any longer Subsistance here with Safety, and thereupon makes a Composition for his passage home, abjures his Claim to the Kingdom, and returns to *France*; But if *Louys* had prevailed here, what Security had the *English* Nobles had in his *French* Oath, for within a little while after he had taken it, he made spoil and plunder of all he could lay hands on, Friend or Foe; which made many of the *English*, he breaking his Oath to them, to think themselves disobliged thereby from the Oath they had given him, and to forsake his Party, and more would have forsaken him had it not been for shame of Inconstancy, and that he had their Hostages in *France*, whom he would have on their Revolt Destroyed. And to shew his Intention of perfecting his Perjury to the height if he could have got Power, there was a constant

Coronation of the King's eldest Son, the best remedy against the Barons calling in the *French*.

Louys a Papist King, breaks his *French* Oath to the Papist Subjects of *England*.

Report

Report and generally divulged concerning the Confeſſion of the Viſcount *Melun*, a *Frenchman*, who lying at the point of Death, touch't with Compunction, is ſaid to reveal the Intention and Vow of *Lewis*; which was not only to Deſtroy the *Engliſh* Nobility, but if he could the whole Nation. *Dan. Hiſt.* 148. The like Example is of the *French* Catholick, more properly Papiſt Faith to the Nobility and People of *Scotland*, *Buchan. Rer. Scot. Lib.* 17. *p.* 156. where appears, The *French* Papiſts were called into *Scotland* by the *Scotch* Papiſts, to aſſiſt them againſt the Proteſtants there, on Mutual Agreement on Oaths between the Papiſt of both Nations; but when the *French* Army came they ſpoyl'd alike both Papiſt and Proteſtant. And the *French* Gariſon at *Leith* deſtroy all with Fire and Sword as far as they could reach. *Clades autem Ex vaſtatione Agrorum non minus ad Papanos ſine diſcrimine Scotorum Nobilitatem Extinguendam eſſe, in eorum autem prædiis mille Catraphractos Equites Gallos collocari poſſe, reliquam Multitudinem Servorum Loco habendam; id Conſilium literis ejus ad Gallum interceptis divulgatum, mirum quantum Gallorum odium Jam aliis de Cauſis natum auxit. Ambianus autem Epiſcopus non modo Romane Cauſe minus æquos ſed etiam Gallorum partibus minus quam ipſe Cenſebat æquum addictos in dicta cauſa agere rapere truci dare jubebat.*

A *French* Papiſt King forſworn to the Papiſt Nobility of *Scotland.*

The Devaſtation of the Countrey about *Leith* by the *French*, fell no leſs on the Papiſt than Proteſtant. *Labroſs* adviſed that the whole *Scottiſh* Nobility was without any Difference made to be deſtroyed, and a Thouſand *French* Barbed Horſe to be planted on their Eſtates, and the reſt of the Multitude to be kept for Slaves; which Council (his Letters being intercepted wherein he had ſent the ſame to the *French* King) after it was divulged, 'tis wonderful how it increaſed the hatred againſt the *French*, which for other Cauſes was already ſufficiently begun. The Biſhop of *Amiens* likewiſe, without ever hearing the Cauſe, Commanded not only thoſe who favoured not the *Romiſh* Religion, but the *French* Cauſe, as much as he would have them to be purſued, taken by Force, and Killed.

To return again to *England*, we left where King *John* having broken his Oath to the Nobility and Parliament being dead, the ſame Oath of preſerving the Laws and Liberties was again obtained of his Son *Henry* the Third; who in the Barons Wars wanting

Henry the 3d. a Papiſt King, forſworn to Papiſt Subjects.

wanting Money, a Tenth is granted him by the Clergy, and a Scutage by the Layity of Three Marks of every Knights Fee; yet with this Agreement, That the often Confirmed Charter of *Magna Charta*, and *Charta Foreſta* ſhould be again Rectified, Confirmed and Sworn to; and that in the moſt Solemn and Ceremonial manner, as Religion or State could ever deviſe to do.

The Solemn manner of giving his Oath by *Henry* the Third, to confirm his Subjects Liberties.

The King therefore with all the great Nobility of *England*, all the Biſhops and Chief Prelats in their Pontificalibus, with burning Candles in their hands, aſſemble to hear and pronounce the Terrible Sentence of by-Excommunication againſt the Infringers of the Charters, and at the lighting of one of thoſe Candles, the King having received one in his hand, gives it to a Prelate, who ſtood by ſaying, *It becomes not me who am no Prieſt to hold this Candle, my heart ſhall be a greater Teſtimony*; and withal laid his hand ſpread on his Breaſt the whole time the Sentence was Read, which was thus pronounced, *Authoritate Dei Omnipotentis*, &c. which done, he cauſed the Charter of King *John* his Father, granted by his free Conſent to be likewiſe openly Read; in the end, having thrown away their Candles (which lay ſmoaking on the ground) they cryed out, *So let them who incur this Sentence be extinct and ſtink in Hell.* And the King with a loud voice ſaid, *As God me help, I will as I am a Man, a Chriſtian, a Knight, a King Crowned and Anointed inviolably obſerve all theſe things*; And therewithal the Bells rung out, and all the people ſhouted for Joy, *Dan. Hiſt.* 169. but his Oath came to nothing, for he ſecretly ſent to the Pope for his Abſolution from them, and the Pope for Money by his Apoſtolick Sentence Abſolves the King from his Oath to his Subjects, whence inſued great Wars and Miſeries in the Land, *Bac. Hiſt.* 86. and though *Magna Charta* was in his time granted; yet he never kept it, but his whole Reign after, the ſame was a perpetual Contention by him to raiſe his Prerogative to an Arbitrary Power, Deſtructive to all Liberty and Propriety of his Subjects, which he had Confirmed to them by Oath, Charter, and Act of Parliament; and inſtead of asking a Diſpenſation of the Pope to Levy Taxes on the Subjects without their Conſent in Parliament, he took the eaſier way, and diſpenſed with the Pope to Levy on them what he would, and give him a ſhare. So the poor Subjects paid double, whereas

Henry the 3*d.* ſecretly Abſolved from his Oath to his Subjects by the Pope.

if

if they had paid only to the Pope, or only to the King, they had only born a single burden; but now they Complained as the History mentioneth, That the Shepheard and the Woolf Confederated both to destroy the Sheep, and the Pope continually levied so many insupportable Taxes on them to maintain his Wars against the Emperor, that both Clergy and Layety address'd their heavy Complaints of him to the King himself; but the King was so far from relieving them, that he offer'd the Pope's Legat to deliver up to him the Chief Opposers, who now by the King's Animation grew more insolent to oppress them than before. *Henry* the 3*d*. being dead, his Son *Edward* the First Succeeded him; a King Renowned for his Valour and Wisdom against his Enemies, yet Dissentions with his Subjects hindred that Valour, and from extending themselves to that degree of Glory they might have otherwise arrived; neither is it only Valour and Wisdom, unless Justice is likewise joyned, can make a People happy in their Prince, or himself happy in them. He likewise took the same Oath for preservation of Laws and Liberties, as his Father and Grandfather had done; but whether seduced by their Example, or their Evil Counsellors, as he had imitated them in the taking; so likewise did he in the Violation of his Oath; for as his Father had done before him, notwithstanding his Oath and Complaints by his Subjects, of the Pope's oppressions, he and the Pope as his Father had done, like the Shepheard and the Woolf, agreed to divide the spoil of the Flock between them; the Pope therefore granted the King the Tenth of all the Churches of *England*, and the King grants the Pope to have the first fruits of those Churches, *Dan. Hist*. 202.

Shepheard and Woolf confederated to share the Sheep.

Edward the First, a Papist King forswore himself to his Papist Subjects.

This *Edward* likewise, after many Contests wanting Money in the 25th year of his Reign, called a Parliament, wherein with much ado he granted the Confirmation of the two Charters of *Magna Charta*, and *Charta Forrestæ*, and that with the omission of the Clause of *Salvo Jure Coronæ Nostræ*, such another Clause as is *Aut per Legem terræ*; which the King laboured much to have inserted; but the People would by no means agree; he therefore Confirmed them absolutely, and Enacts further, That *All Arch-Bishops and Bishops shall Pronounce the Sentence of Excommunication against all those that by Word, Deed, or Counsel do contrary to the aforesaid Charters, or that in any Point*

break or undo the ſame; and that the ſaid Curſes be twice a year Denounced and Publiſhed by the Prelates aforeſaid. And if the ſaid Prelates, or any of them be Remiſs in Denunciation of the ſaid Sentences, the Archbiſhop of Canterbury *and* York *for the time being, ſhall Compel and Diſtrain them to the Execution of their Duties in form aforeſaid*; as appears in the Statute 25 *E.* 1. *cap.* 4. And all this he confirms by Solemn Oath: What greater Security can be Invented? here is an Act of Parliament, Oath, Excommunication, Curſes, Archbiſhops, Biſhops, Prelates, all ingaged to ſee it performed; but to what purpoſe? King *Edward* ſends a Furniſh of Gold to the Pope for his Chamber, and he ſends him back an Abſolution from his Oath and Covenant with his Subjects, concerning the Charter of their Liberties, whereby they are all again broken by the King, and loſt to the Subjects, *Bak. Hiſt.* 99.

Edward the Firſt, for a furniſh of Gold, abſolved by the Pope from his Oath.

Edward the First being dead, (for the Pope's Abſolution from his Oath could not keep him alive) *Edward* the Second Succeeds him, who not only took his Coronation Oath, and kept it not; but likewiſe before his Coronation, in Regard the Lords threatned they would hinder it, unleſs according to his Father's Will, who had Commanded him to Baniſh *Pierce Gaveſton*, he would do the ſame; he Solemnly ſwore, That if they would not Diſpute his Coronation, but reſt quiet till the next Parliament, he would Baniſh him as they deſired. And likewiſe after, in the Third year of his Reign, being further preſs'd and importuned, conſented at laſt that the Parliament ſhould draw Articles of Agreement between him and the People, of whatſoever was neceſſary for the good of the Kingdom, and he would Ratifie the ſame upon Oath; who thereupon Elected divers Choice Men, both of the Clergy, Nobility, and Commons, to Compoſe thoſe Articles; which done, the Archbiſhop of *Canterbury*, with the reſt of his Suffragans, ſolemnly pronounce the Sentence of Excommunication againſt all ſuch who ſhould Contradict thoſe Articles which are there Publickly read, before the Barons and Commons of the Realm, in the Preſence of the King, amongſt which, the Obſervation and Execution of *Magna Charta* is required, with all other Ordinances, neceſſary for the Church and Kingdom: And that as the late King had done, all Strangers ſhould be Baniſhed the Court and Kingdom, and all Evil Counſellors removed.

Edward the Second, a papiſt King forſwore himſelf to papiſt Subjects.

moved. That the Buſineſs of the State ſhould be treated of by the Counſel of the Clergy, and the Nobles. That the King ſhould not begin any War, or go any way out of the Kingdom without the conſent of the Common Council of the ſame, *Dan. Hiſt.*205. which Articles and others, though they ſeemed harſh to the King; yet to avoid further Trouble, he yielded to them, and Ratified them on Oath; but eſpecially to the Baniſhment of his Minion *Pierce Gaveſton*, who being a *Gaſcoigne* was a Stranger, intended by the Articles to be Baniſhed, though not under the ſame Suſpition as other *French*, their Countrey-men, who have generally when entertained in Court by the *Engliſh* Kings, been Evil Councellors to them, to Imitate the *French* Arbitrary Power and Perfidiouſneſs over their Subjects, and to breed Diviſion between the King and People, to prepare the Kingdom to be a Prey to their own *French* Maſters, whoſe Leidger Spies and Intelligencers they hear, have uſually been entertained at the Coſt of the *Engliſh* Kings againſt themſelves; none can therefore doubt but King *Edward* the Firſt, the Father of this King *Edward* the Second, did Nobly and Wiſely in Baniſhing all Strangers from his Court, and left the ſame Command on his Son. And more particularly concerning this *Gaveſton*, though he not only broke in this the Command of his dead Father, but his Oath to his Loving Subjects, which was his Ruine; for his entertainment of *French* Councels endammaged his *Engliſh* Subjects, and his neareſt *French* Relation *Iſabel* his own Queen Perfidiouſly by the help of her Brother the *French* King, raiſed a Rebellion here of his own Subjects againſt him, which cauſed him to be Depoſed from his Kingdom, and ſhortly after to be Murdered in an hideous manner in *Barckly* Caſtle.

Strangers, ſome to be Baniſhed from Court.

Stranger at Court Spies.

So here are four Kings, Great Grandfather, Grandfather, Father and Son all Papiſts; all Confirming and Breaking *Magna Charta*, and their Oaths, and their Subjects to whom they have broken them have been all Papiſts, and the ſame Papiſt Religion gives no Mutual obligation of an Oath, though to Men of the ſame Religion; Yea, this *Magna Charta* of Liberties hath been Thirty times Confirmed by King and Parliament, while the Papiſt Religion laſted; which ſhews the Oath hath been more than Thirty times broken, by ſome or other of their Papiſt Princes; for otherwiſe it would not need ſo many

Magna Charta no leſs than Thirty times Sworn or confirmed, and forſworn or broken by Papiſt Kings to Papiſt Subjects.

many new Confirmations and Oaths. In the Proteſtant Religion it is held, That once forſworn, ever-forlorn; In the Papiſt it appears, he is not ſo thought, though Thirty times forſworn; but he may ſtill ſwear and forſwear, and begin again anew, as many times as he will; were it not therefore more ſecure for the Papiſt himſelf to Covenant with a Proteſtant Succeſſor, who dares not break his Oath, lying under ſo great a Penalty of Conſcience than with a Papiſt, who makes Perjury not to be Penal, and whoſe Religion it ſelf teaches the wicked Doctrine of *Lyſander*, that Children ought to be deceived with Promiſes, and Men with Oaths? for what Commerce or Humane Society can there be had with thoſe who will keep neither? whether they be Kings or Subjects, or of what Degree or Religion ſoever they be?

Only two ways of Succeſſion, Contract or Conqueſt.

(2.) Seeing a Papiſt Succeſſor can be obliged by no Contract or Oath, therefore he cannot Succeed by Contract. And if he Succeed not by Contract, then he will Succeed by Conqueſt; for there are but two ways of Succeſſion, either by Contract, or by Conqueſt. And if he Succeed therefore by Conqueſt, ſuch Power he will ſay 'tis *Diis æqua Poteſtas*, *Deus eſt Imperator in Cœlis*, and *Imperator eſt Deus in Terris Jure Divino*, is above all Humane Laws; he will therefore be Lawleſs, and no Law ſhall be but his Will. But a Proteſtant Succeſſor claims only to the Rule, according to Laws agreed and aſſented to by the Subjects themſelves, by their Repreſentative in Parliament. Can any Sober Papiſt deny it is not better to have his equal Laws, than as a Slave to be deſtroyed at Pleaſure, by a cruel, unjuſt, and lawleſs Will, as they are generally by their Princes in all Catholick Countries?

Further

Further Examples of the Perfidiouſneſs of Papiſt Princes to Papiſt Subjects.

Henry the Fourth was a Papiſt, and a Violent Enemy againſt the *Wicklenite* Proteſtants, yet perfidious to his own Papiſts too; as appears *Truſſ. Hiſt. fo.* 73. there are Articles made againſt him, and the firſt of them is, That when he return'd from his Exilement, he made Faith only to Challenge and Recover his Inheritance and his Wives; and not to intermeddle with the King, nor with his Crown: by reaſon of which Oath, divers Loyal and good Subjects to King *Richard* reſorted unto him, not having any Treaſonable intent; but after when he ſaw his Powers ſo much increaſed that he might do what he pleaſed, he wickedly brake his Oath, and without any Right, or colour like Right, procured himſelf to be made and Crowned King.

Henry the Fourth, a Papiſt King, forſwore himſelf to papiſt Subjects.

Another Article was, That no Juſtice could be expected from his hand; becauſe that contrary to the Oath he had taken when he was Crowned he had by Letters ſent into ſundry Shires, thereby procured certain Burgeſſes of the Parliament, & Knights of the Shire to be Choſen, whom he knew would not fail to ſerve his turn, as occaſion ſhould be offered. Here we ſee is a Papiſt King, and Papiſt Subjects, and he takes an Oath to them concerning the greateſt Liberty the Subjects can enjoy; which is, the free Election of their Repreſentative in Parliament; yet this Papiſt King breaks this very Oath, not only to his Papiſt Subjects, but to that very party who were of his own party, and Crowned him.

Henry the Sixth, and *Richard* Duke of *York*, were both Papiſts, and the Duke of *York* took his Oath of Allegiance to King *Henry*. After taking King *Henry* Priſoner, He Calleth a Parliament in the King's Name; by which Parliament terrified by the Duke's Sword, it was agreed and Enacted, That *Henry* during his Life ſhould retain the Name and Honour of a King, and that the Duke of *York* ſhould be proclaimed Heir Apparent to the Crown, and Protector to the King's Perſon, his Land, Dominions, and Countrey. And that if at any time King *Henry*'s Friends, Allies, Favourites in his behalf, ſhould

Richard Duke of *York*, a papiſt Subject, forſwore himſelf to *Henry* the Sixth, a papiſt King.

ſhould attempt the Diſanulling this Act, that then the Duke ſhould have preſent poſſeſſion of the Crown. No ſooner was the Parliament Diſſolved, but the Duke by vertue of his Protectorſhip, eſteeming himſelf a King in Office and Power, though not in Name, diſpatcheth Letters to the Queen, the Duke of *Somerſet*, *Exceter*, and other Nobility, who were then in *Scotland*, with all ſpeed to repair to his preſence at *London*; they knowing their own Security, lay only in keeping out of his Power, marched towards him, but Guarded with an Army of Eighteen thouſand Men, and met him at *Wakefield*, who had there but a ſmall Army of Five thouſand to oppoſe them, on whoſe Valour notwithſtanding the Duke relying, and though adviſed by his Council to forbear Fight till his Son the Earl of *March* could bring up his Forces to joyn with him; yet the Pride of his former Victories made him deaf to good Advice; and therefore raſhly joyned Battel, whereby he haſten'd his own Deſtiny, and was Slain on the place, with Three thouſand of his Men; after which Overthrow of the Father, his Son the Earl of *March* and his Confederates having overthrown the Queens Army at the Battel of *Mortimor's Croſs*, and fought the Battel of St. *Albans*, and the Earl of *Warwick's* Forces joyned with him, is proclaimed King; but before he could be Crowned he was forced to Fight again with another Army, which King *Henry* had raiſed in the North; which Battel continued doubtful with eager Reſolution on both Sides the ſpace of Ten hours, whereby there were above Six and thirty thouſand Men Slain, *Bak. Hiſt.* 203. But in the end, the Day fell to *Edward*, and the King flying to *Barwick*, and her Son to *France*, *Edward* is Crowned King; but after Diſobliging the Earl of *Warwick*, he leaves *Edward*, and indeavours to reſtore again the Title of *Henry* the Sixth, and removes him out of the *Tower*, where he had been a Priſoner almoſt Nine years, and Reſtores him his Crown, and all Imperial Ornaments and Officers, and King *Edward* is proclaimed an Uſurper, and all his partakers Traitors, which forced King *Edward* to fly to the Duke of *Burgoign* his Brother-in-Law, who had Married his Siſter; but *Warwick* ſending Forces over to *Callice*, to Infeſt the Dominions of *Burgoign* for Entertainment of *Edward*; *Burgoign* being ſenſible of the ſtorm likely to fall on him, wiſely to wrought,

wrought, that he made a Truce with King *Henry*, and Ratified it by Oath, that he would give no Aid to his Brother-in-Law *Edward* againſt him. Yet this Oath he immediately broke, and under-hand furniſhed him with Eighteen tall Ships, Two thouſand *Dutchmen*, and Fifteen thouſand Florens of Gold. Here may be ſeen what little Truſt can be had by an *Engliſh* Papiſt Prince to the Oath of a Foreign Papiſt Prince, though he pretend the common Obligation of the ſame Religion. See here the next Example, how little a Papiſt King can truſt the Oath of a Papiſt Subject, or a Papiſt Subject him. After the Second Battel at St. *Albans* between the Queen and the Forces of *Edward* Earl of *Marſh*, the Nobles who in outward ſhew before ſeemed for the King, withdrew themſelves from Attending his Perſon, and the Lord *Bonvile* coming in a Complemental manner to the King, ſaying, It grieved him to leave his Majeſty; but Neceſſity for the Safeguard of his Life inforced it: But at length he was importuned, and Sir *Thomas Kyviel* likewiſe by the King to ſtay, he paſſing his Royal Word that their ſtay ſhould not indanger their Bodies; upon which promiſe they ſtayed, but to their coſt, for ſuch was the implacable Fury of the Queen, that hearing Baron *Thorp* was by the Commons Beheaded at *Highgate*, ſhe the day after the Battel being *Aſh-Wedneſday*, cauſed both their Heads to be ſtruck off at St. *Albans*. *Truſs. Hiſt.* 172.

The Duke of *Burgoign* a Papiſt Ally, forſwore himſelf to *Henry* the Sixth, a Papiſt King.

Henry the Sixth a Papiſt King, broke his Promiſe to two Papiſt Subjects, to their loſs of their lives.

If ſo Saint-like a Papiſt King, or his Queen for him, broke his word to thoſe of his own Religion, what is to be expected from them who openly appear in the ſhape of the Father of Lies, and care not for Transforming ſo much as in ſhew to Saint or Angel.

As the Duke of *Burgoign* had contrary to his Oath aided *Edward* with a Fleet, Men, and Money againſt *Henry* the Sixth; ſo he himſelf coming over, and Landing at *Ravenſpur* in *Yorkſhire*, finding but cold Entertainment, and having marched to *York*, and finding as little Expreſſion of Welcom, he fell on the old Popiſh ſhift of ſwearing and forſwearing.

He therefore ſwore deeply, and took the Sacrament upon it that he came not to diſturb King *Henry*, but only to recover his own Inheritance, and for the more ſhew thereof, he wore an Eſtritch Feather, Prince *Edward*'s Livery; which Propoſition ſeemed ſo reaſonable, that many who reſiſted him before, were

Edward the Fourth, a Papiſt King forſwore himſelf, though he took the Sacrament on it to Papiſt Subjects.

were as ready to assist him now, both Sides seeking to make *London* their Friend; to which end, the Earl of *Warwick* sends to his Brother the Archbishop of *York* to Labour in it with the City, to continue their Fidelity to *Henry* their King; which he did accordingly, but could not get above Seven or Eight thousand Men, a small proportion to withstand King *Edward*. *Comines* and *Bodin* make the Reason why the Citizens were rather inclinable to bring *Edward* to be, because he owed the City great Debts; and if he should miss, they should lose their Debts. Others add another Reason to be, Because *Edward* had been kind to many of the Citizens Wives, who importuned their Husbands to receive him; but whatever were the cause the Archbishop of *York*, so much doubted of the effect of their being Faithful, that he sent secretly to *Edward*, to desire him to receive King *Henry* into his Grace, which on promise of being Faithful thereafter, he obtained; and thereupon the Archbishop delivered King *Henry* into King *Edward*'s hands.

Edward the Fourth contrary to his Promise, suffers *Henry* the Sixth to be Murdered.

So here *Edward* a Papist King, promiseth *Henry* a Papist King, on the greatest Consideration one King can give to another, the Delivery of his Person into his Competitors hands, that he will not hurt him in his Custody; yet after he Commands or Suffers him to be Murdered in the *Tower* by his Brother the Duke of *Glocester*, where he was Imprisoned.

A Papist Successor will give no Liberty of Conscience to Papist Subjects.

(3.) A Papist Successor will not give Papists themselves Liberty of Conscience, insomuch as a Thought. But will force the Conscience, either by Imprisonment, Inquisitions, Racks, or Tortures falsly to accuse it self, or by Compulsion to Oaths or External Forms and Ceremonies of Worship to betray it self to the Injust punishment of Penal Laws and Statutes. How little the Papist Inquisition spare their own Papists, though they have not the least exception against them for their Religion, may in part appear by the following Story.

He will exercise the Cruelty of the Inquisition on Papists themselves.

Father *Ephraim* a Friar Capuchin, was Born at *Anxerre* in *France*, and was Brother of Monsieur *Chateaude Boys*, Councellor of the Parliament of *Paris*; Father *Ephraim* was Learned in the Languages, and of as great Diligence, Learning, Eloquence and blind Zeal in Preaching up the Papist Religion

as

as the beſt of them. And to ſpread the ſame, he Travelled to the *Indies*, and was there entertained at *Bagnabar* by the *Chek*, who had Married the eldeſt of the Princeſſes of *Golconda*, and he Promiſed to build him an Houſe, and a Church, gave him an Ox, and two Men to carry him to *Maſlipatan*, where he ſtayed to Imbark for *Pegu*, according to the order of his Superiours; but finding no Veſſel ready to ſet Sail, the *Engliſh* drew him to *Madreſpatan*, where they have a Fort called St. *George*, and a General Factory for every thing that Concerns the Countries of *Golconda*, *Pegu*, and *Bengala*; they over-perſwaded him that he might reap a fairer Harveſt in this place, than in any other part of the *Indies*; to which end they built him a very neat Houſe and a Church. *Madreſpatan* is but half a League from St. *Thomas*, a Sea-Town on the Coaſt of *Cormandel*, where was a very great Trade, eſpecially for Calecots, and a very great Number of Merchants and Workmen lived there, the greateſt part whereof deſired to Inhabit at *Madreſpatan* with the *Engliſh*; but that there was no Place for them to Exerciſe their Religion. But when the *Engliſh* had Built a Church, and perſwaded Father *Ephraim* to ſtay, many of the *Portugueſes* quitted St. *Thomas*, by reaſon of the frequent Preaching of Father *Ephraim*, and his great Care as well of the Natives, as of the *Portugals*, and in regard he ſpoke both the *Engliſh* and *Portugueſe* Languages perfectly well, which cauſed ſo great Envy in the Clergy of St. *Thomas* Church, that they reſolved to ruin him, and laid their Plot thus. The *Engliſh* and *Portugueſes* being ſo near Neighbours, could not chooſe but have ſeveral Quarrels one with another; and ſtill Father *Ephraim* who was in great Reputation with both, was applied to for Compoſing their Differences.

Now one day, The *Portugueſes* quarrelled on purpoſe with ſome *Engliſh* Marriners that were in St. *Thomas* Road, and the *Engliſh* came by the worſt: The *Engliſh* Preſident reſolving to have Satisfaction for the Injury, a War brake out between the two Nations, which had Ruin'd all the Trade of that Countrey, had not the Merchants on both ſide been very diligent to bring things to an Accommodation, not knowing any thing of the wicked contrivance of particular perſons againſt Father *Ephraim*. All the Interpoſition of Merchants availed nothing, the Friar muſt be concerned in the Affair, he muſt be the Me-

diator to Act between Party and Party, which he readily accepted.

But he was no sooner entred into St. *Thomas*, but he was seized by Ten or Twelve Officers of the Inquisition, who shipt him away in a Frigat that was bound at the same time for *Goa*. They fetter'd and manacled him, and kept him Two and twenty Days at Sea, before they would once let him put his foot on shoar, though the best part of the Marriners, lay ashoar every Night: When they came to *Goa*, they stayed till Night before they would Land Father *Ephraim*, to carry him to the Inquisition-House; for they were afraid if they should Land him in the Day, the People should know of it and Rise in Rescue of a Person who was in Veneration over all *India*.

The News was presently spread abroad in all Parts, that Father *Ephraim* was in the Inquisition, which very much amazed all the *Frenchmen*; but he who was most surprized and troubled at it was Friar *Zenon* the Capuchin, who had been formerly Father *Ephraim*'s Companion; who after he had consulted his Friends, resolved to go to *Goa*, though he were put into the Inquisition himself; for when a Man is once shut up there, if any one have the boldness to speak to the Inquisitor, or to any of his Counsel in his behalf, he is presently put into the Inquisition also, and accounted a greater Offender than the other; neither the Archbishop nor Vice-Roy themselves dare Interpose, though they are the only two Persons over whom the Inquisition hath no Power; for if they do any thing to offend them, they presently write to the Inquisitor General and his Counsel in *Portugal*, and as the King and the Inquisitor General Commands, they either proceed against, or send these two great Persons into *Portugal*.

Yet Father *Ephraim* Reports, These high and proud Inquisitors and their Counsel are very Ignorant Fellows, which he found when they put him to Question, and so saith he did not believe that any of them had ever read the Scripture; but the more fit they are to be the Butchers in these Bloody and Inhumane Cruelties they Practice. Monsieur *de Chateau Des Roys*, Father *Ephraim*'s Brother complained to the *Portugal* Ambassador, who presently wrote to the King his Master to send a Positive Command by his first Ship thither, that Father *Ephraim* should be Discharged; The Pope himself also

wrote

wrote, Declaring that he would Excommunicate all the Clergy of *Goa*, if they did not Set him at Liberty: But all this signified nothing, for ſtill they kept Father *Ephraim* in ſuch Dureſs in a blinded Dungeon, with a Window Barred with Iron but half a foot ſquare, that he loſt thereby the Sight of one of his Eyes. And if an *Indian* King had not relieved him more than the Pope or King of *Portugal* were able to do, he had been there Deſtroyed; for the King of *Colconda*, who was at Wars with the *Raga* of *Carnatica*, and his Army lay round about St. *Thomas*, on Complaint to him of the Injuſtice by the Inquiſition to Father *Ephraim*, ſent order to his General *Mirgimola* to lay Siege to the Town, and put all to Fire and Sword unleſs the Governor would make him a firm Promiſe that Father *Ephraim* ſhould be ſet at Liberty within two Months; which ſo allarm'd the Governor and Town, that they ſuddenly got him to be ſet at Liberty at *Goa*. *Tavernier Lib.* 1. *Part* 2. *cap.* 15. *p.* 85.

The Inquiſition regards neither Pope nor King.

If therefore the Pope and a Papiſt King, were not able, or dared not Protect one of their own Religion, and Orders againſt the Injuſtice of the Inquiſition; much leſs will a Papiſt Succeſſor be able to do it. And if both Pope and Papiſt King were not able to defend a Papiſt Prieſt, much leſs will they the Lay-Papiſt, as to whom they are ſo Terrible, that as is the common Story, One of the Lord Inquiſitors having a mind to ſome pleaſant Pears in a Countryman's Orchard, Sent to have him come to him, to buy or beg ſome of his Pears, which put the Man in ſuch a fright, that he Digged up the Tree, Root and all, and carried the ſame with all the Fruit on it to his Lordſhip; and when he demanded the reaſon of that Unhusbandly action, he told him, He would never keep that thing in his Houſe which ſhould give any of their Lordſhips a further occaſion to ſend for him.

But it will be the Intereſt of a Proteſtant Succeſſor, neither to puniſh Papiſt or Proteſtant for Conſcience; neither to Compel Papiſt or Proteſtant to Faith, or form of Worſhip, nor to impoſe Penalties for Recuſancy in either, nor to debar the Lay-Papiſts from any thing from whence the Proteſtants are not equally debarred, except Publick Offices; of which the Reaſons are at large ſhewn before, *Lib.* 2. *p.* 401, 402, *&c.* for as to Idols and Maſs, the Proteſtant ought to be debarred as well as the Papiſt.

Lay-Papiſt not to be debarr'd any thing a Proteſtant injoys, except Publick Offices.

(4.) It is a great benefit to all Lay-Papists to be protected and freed from the intollerable Exactions and Cheatings of Money from them by their Priest, particularly for Offerings to Images, for Confessions, Penances, Absolutions, for Baptisms, Confirmations, Marriages, Extreme Unctions, Places of Burials, Dirges, Masses, Pardons, Redemption from Purgatory, all Inventions of their Priest to Cheat them, their Wives, Children, and Families from Generation to Generation, of what should pay their Debts, and find their Fatherless Children Food and Rayment; as likewise from all the Military and Civil Taxes, Tributes, and Payments they unknown to the Protestant, exact from them, and exhaust their Estates, all which a Protestant Successor will free them from; but a Papist will increase upon them.

(5.) If a Papist Successor happen, all Lay-Papists living within the four Sees, will be Compell'd to prostitute their Wives and Daughters, to the Priest in Auricular Confessions, to have their Nakedness discovered, their Estates purloined, the Secrets of their Houses, and oftentimes their Lives betrayed to their Enemies, and they shall be compelled to submit to the false Certificate of the Insolent Priest to disinherit their True and Natural Children, and Heirs, and to appoint false and adulterous Heirs, and *fils de Prestre* to Succeed to their Inheritances, and no Probation shall be admitted to the Contrary, from which more than *Pagan* slavery, a Protestant Successor will free them; but never a Papist.

(6.) If a Papist Successor happen, all Lay-Papists shall Suffer for every one Offence two Punishments, and shall pay all Fees, Fines, Taxes, and Tributes double, one to the Pope and his Officers, the other to the King and his Officers; one to the Spiritual Court, another to the Temporal Court. It is said of the Ass in the Fable, That when he was let out of the Camp where his Master was, to Graze, he was admonished by his fellow Ass, not to go too near another Camp which was in sight of them, because that was the Enemies: To which the other answered, If the Enemy took him, he would lay no worse Burdens on him than his Master did; therefore it matter'd not which he went neareſt.

A

A Lay-Papiſt therefore (though the pamper'd Papiſt Prieſt perſwade him otherwiſe) would ſhew leſs Diſcretion than that groſs-headed Animal; ſhould he not leſs fear to be in the Camp of a Proteſtant Succeſſor, though the ſuppoſed Enemy, who would Load him but with half the Burden of his Maſter, than to be in the Camp of a Papiſt Succeſſor, though his Maſter who will aſſuredly lay double the Puniſhment and double the Burden on him which a Proteſtant will do, whoſe Camp will be like the Camp of *Alexander* the Great, where the *Perſians* found as courteous entertainment as the *Macedonians*. And he uſed to ſay, He would be the Common Father, and his Camp ſhould be the Common City of the World.

Dominicans and Jeſuits.

(7.) If a Papiſt Succeſſor happen, he will either favour the *Jeſuits* and their followers, or the *Dominicans* and their followers; if he favour the *Jeſuits*, the *Dominicans* will be ruin'd; if he favour the *Dominicans*, the *Jeſuits* will be ruin'd; and ſo conſequently the Lay-followers of both. Again, If a Papiſt Succeſſor happen, he will either favour the *Guelphs* or the *Gibellins*, the one being for the Papal, the other for the Regal Supremacy; if he favour the *Guelphs*, the *Gibellins* will be ruin'd; if he favour the *Gibellins*, the *Guelphs* will be ruin'd. Were not the Lay-Papiſt better have a Proteſtant Succeſſor, who will free them from both theſe ſorts of *Botefeu* Papiſt Prieſts, who ſet their own Papiſt Flock to tear one another, that they may prey on both? Were it not more wiſe for the Lay-Papiſt to do with their *Guelphs* and *Gibellins* as *Bodin* ſaith they did in all the Cities of *Italy*, where theſe two Factions raged? namely, to Elect Strangers for their Magiſtrates, Judges who were neither *Guelphs* nor *Gibellins*, of all which Miſeries which will aſſuredly be impoſed and continued on them by their Prieſts and Princes, whom no Covenant-Oath, or Sacred Obligation of Conſcience can tye, if they happen to fall into the hands of a Papiſt Succeſſor.

Guelphs and Gibellins.

Let all Lay-Papiſts therefore but ſeriouſly conſider if it be not more happy for them to be freed by a Proteſtant Succeſſor, than inſlaved to them by a Papiſt. Let them but conſider, whether it is not better for them to be permitted to them by the Proteſtants, the ſame Liberty from all penal Laws, Taxes, Tributes, Oaths and Teſts, as Proteſtants have themſelves, than

Lay-Papiſt to be Prohibited nothing, from whence a Proteſtant is not Prohibited, except Publick Offices.

than to have the ſame taken from both by a Papiſt Succeſſor? It will be the Intereſt of a Proteſtant Succeſſor to prohibit the Lay-papiſt no other Idols, no other Prieſts, no other Sacrifice, no other Offences, Recuſancies, Crimes, Arms, Conventions, nor any thing elſe (except publick Offices, which if really conſidered, are rather Burdens than Benefits in all reſpects, beſides that of publick Safety) than he prohibits equally his own Proteſtant Subjects. It will be the Intereſt of a Proteſtant Succeſſor to Rule by Laws and Love; but a papiſt Succeſſor will believe that it is his Intereſt to Rule by an Arbitrary power, and Fire and Sword.

To Conclude, Let the Lay-papiſt but conſider at what rate they themſelves who were Papiſts were Ruled by *H.* 8. a Papiſt King, together with the Proteſtants, who hanged the one for not acknowledging him Supreme Head of the Church; and burnt the other for not believing Tranſubſtantiation; inſomuch that a *French* Papiſt who came over hither and ſaw it, Cryed out, *Deus bone quomodo hic vivunt gentes, ubi ſuſpenduntur Papiſtæ & comburuntur Anti-Papiſtæ?* Good God (ſaid he) what ſhift do people make to live here, where Papiſts are hang'd, and Anti-papiſts burnt? And let them conſider the more freſh example of *Philip* the Second of *Spain*, the Son-in-Law of *H.* 8. after his Death by Marriage with Queen *Mary*, for did he not Rule his Papiſts as well as Proteſtants Subjects in *Holland* and the *United Provinces*, after the ſame rate as *H.* 8. had done his here in *England*; for he firſt by Oath and Agreement, bound himſelf as well to his Papiſt as Proteſtant Subjects not to infringe their Laws and Liberties, nor to increaſe the ancient Number of their Biſhops, which was but three: But he notwithſtanding his Oath, indeavour'd to bring in amongſt them the Inquiſition, increaſed the Number and Power of their Biſhops, from three to ſeventeen, for every Province one, both of them deſtructive to their Conſciences, Laws, Liberties, and Propriety, but being after a long War overthrown by the *United Provinces*, and their Confederates, he acknowledged them free and Soveraign States; whereby they recover'd again their loſt Liberties.

And though as is noted by Sir *William Temple* in his Excellent Obſervation on the *United Provinces*, *Cap.* 5. *p.* 200. the

Roman

Roman Catholick Religion was alone excepted by the States from the Common Protection of their Laws, making Men as they believed worſe Subjects than the reſt, by the acknowledging of a Foreign and Superior Juriſdiction; for ſo muſt all Spiritual Power needs be, as grounded on greater Hopes and Fears than any Civil, at leaſt where the perſwaſions from Faith are as ſtrong as from Senſe; of which there are ſo many Teſtimonies Recorded by the Martyrdoms, Penalties, Conſcientions Reſtraints and Severities ſuffered by infinite perſons in all ſorts of Religion; beſides this Profeſſion ſeemed ſtill a Retainer of the *Spaniſh* Government, which was then the greateſt Patron of it in the World. Yet was the Care of the States to give all Men eaſe in this point, who ask'd no more than to ſerve God, and ſave their own Souls, in their own way and forms; which ſhews Proteſtants better than their words to Papiſts. That what was not provided for by the Conſtitutions of their Government, was ſo in a very great degree by the Connivance of their Officers, who upon certain conſtant Payments from every Family, ſuffer the exerciſe of the *Roman* Catholick Religion in their ſeveral Juriſdictions, as free and as eaſie, though not ſo cheap and avowed as the reſt.

Of the great good Effects of not compelling Men to Faith or form of Worſhip in *Holland*.

This I ſuppoſe hath been the reaſon, that though thoſe of this Profeſſion are very numerous in the Country amongſt the Peaſants, and conſiderable in the Cities, and not admitted to any Publick Charges; yet they ſeem to be a ſound piece of the State, and faſt-jointed with the reſt: And have neither given any Diſturbance to the Government, nor expreſt any inclinations to a Change, or to any Foreign Powers, either upon the former Wars with *Spain*, or the latter Invaſions of the Biſhop of *Munſter*: Of all other Religions every man injoys the free exerciſe in his own Chamber, or in his own Houſe unqueſtioned and uneſpied. And ſo far they appear to be free from all Penal Laws of Recuſancy, and from all Penal Oaths, and Penal Teſts to rack and puniſh the Conſcience, That as the ſame Author farther mentions, *p.* 205. it is hardly to be imagined how all the Violence and Sharpneſs which accompanies the difference of Religion in other Countries, ſeem to be appeaſed and ſoftned here by the general freedom which all Men enjoy, either by Allowance

or

or Convenience; nor how Faction or Ambition are thereby disabled to colour Ambitious and Seditious Designs with pretences of Religion, which have cost the Christian World so much Blood, for this last Hundred and fifty years. No man can here Complain of Pressure in his Conscience of being forced to any publick Profession of his private Faith, of being restrained of his own manner of Worship in his own House, or obliged to any other abroad; and whoever asks more in point of Religion, without the undisputed Evidence of a particular Mission from Heaven, may be justly suspected not to ask for God's sake, but his own; since pretending to Soveraignty instead of Liberty of Opinion, is pretending the same in Authority, to which consists chiefly in Opinion. Let here any Papist shew a reason why in *Holland* Papists do not live more happily under Protestant Laws, and Protestant Governors, than they did there under King *Philip*, or here in *England*, under *Hen.* 8th. who were Papist Governors, and their Episcopal Jurisdiction; and then he may pretend a Papist Successor better than a Protestant.

Papists in *Holland* live more happily under Protestant Governors, than ever they did before under Papists.

Of Destruction inevitable to Protestants, if the Assuming the Crown by a Papist Successor Male, is not prevented by the King and Parliament, by declaring a Protestant Successor.

IT is already shewn how dangerous a Papist Successor is to Papists themselves, though there were no other reason in it; but that 'tis impossible to lay any Obligation of Conscience on him, or of Promises, Covenants or Oaths: But if it be dangerous to Papists, it must needs be totally destructive to Protestants; if he will break Oaths to his own Papists, what will he do to those whom he calls Hereticks and Protestants?

The Doctrine of his Bishops and Priests is sufficiently known, that *Fides non est servanda cum Hæreticis*, and the horrid Practicks of that Diabolical Doctrine against Protestants, is fitter to be writ in Blood than in Ink, and the number of Protestants destroyed by the Papists perjury are innumerable; and

and to touch farther on the ſame principles, it is to be noted, That the Pope and his Cardinals have this Proverb, *Mercatorum eſt non Regum ſtare Juramentis.* It is for Merchants and not for Kings to keep their Oaths. Pope *Urban* the Second made an ungodly Decree, That an Oath is not to be kept with an Excommunicated perſon, Let all the Proteſtants of *England* conſider by what Oath they think to bind a Papiſt Succeſſor, who have ſtood Excommunicated by the Pope from Generation to Generation; an Oath on a Papiſt, is like a Collar on a Monkey, which they will as eaſily ſlip; which makes *Paſcentius* ſcoff at the Invention of the Oath of Allegiance for Men of his Religion: All which ſhews that his Holineſs, his Cardinals and Jeſuits, are the Judgment of the Judicious Poet all Atheiſts.

Sunt qui in fortunæ jam caſibus omnia ponunt,
Et nullo credunt mundum Rectore moveri
Natura volvente vices & lucis & anni,
Atque ideo intrepide quæcunque altaria tangunt.

And theſe are the Men according to *Ariſtophanes*, *Queis nec fides nec ulla firma Pactio eſt*, *Mimthanes* the *Perſian* General charged the like on the *Romans*, that *Romanis promittere promtum eſt, promiſſis autem quamquam Juramento firmatis minime ſtare.*

Anno 1308. The Pope promiſed the *French* King Aid to obtain the Empire, but underhand writ and wrought all he could againſt him. *Naucler Francis* the Firſt, the *French* King, bound himſelf by an Oath to the Emperor *Charles* the Fifth for performance of Articles; but for Money he eaſily obtained from Pope *Clement* the Seventh, an Abſolution from his Oath. *Sigiſmond* the Emperor, having granted Letters of Safe Conduct unto *John Hus*, and *Jerome* of *Prague*, but by the Biſhops of the Council of *Conſtance*, who decreed that no Faith was to be kept with Hereticks, he was perſwaded to break his Faith, and cruelly to Burn thoſe Martyrs, after which time the ſaid Emperor never proſpered in any thing he took in hand, he died without Iſſue Male, and his Daughters Son *Ladiſlaus* died alſo Childleſs, whereby in one Age his name was quite extinct,

and his Empreſs became a diſhonour to the Royal place ſhe held, and God's Judgments juſtly followed him for his Perjury.

Philip the Second of *Spain*, took an Oath when he came to the Government of the *United Provinces*, not to increaſe the ancient Number of their Biſhops, who were then only Three, and not to change their Church and Laws from the ſtate wherein he found them; but the Pope and the *Spaniſh* Biſhops, ruled him to break his Oath, and to add Fourteen new Biſhops to the Three old, to bring in the Inquiſition amongſt them, to cut off the Heads of the Proteſtant Nobles, and Maſſacre the Proteſtant People; in part of the Execution of which, the Duke of *Alva* going with an Army to *Naerden* in *Holland*, was peaceably admitted into the Town, and himſelf and his Souldiers feaſted by the Burghers; after which, he commanded them and the reſt of the Inhabitants, to go into a certain Chappel, where they ſhould be made acquainted with ſuch Laws as they were to be regulated by; but when they thus Aſſembled, he ſent his Souldiers to Murder them without ſparing any one. The Men were Maſſacred, the Women were firſt Raviſhed and then Murdered, the Children and Infants had their Throats cut. *Clark*'s *Martirol.* 265. like thoſe Heathen Cruelties deſcribed by *Lucan*.

Nobilitas cum plebe perit, lateque vagatur
Enſis, & à nullo revocatum eſt rectore ferrum.
Stat cruor in Templis multaque rubentia cæde
Lubrica ſaxa madent, nulli ſua profuit ætas;
Non ſenis extremum piguit vergentibus annis
Præcipitaſſe diem, nec primo in limine vitæ
Infantis miſeri naſcentia rumpere fata:
Crimine quo parui cædem potuere mereri,
Sed ſatis eſt jam poſſe mori.

Queen *Mary* of *England*, moſt Cruel and perfidious to Proteſtants.

And will any Proteſtants be Self-Murderers, by committing themſelves to the Oaths of ſuch a Religion, to return home from Foreign Popiſh perfidiouſneſs and Perjuries to thoſe in *Great Britain*; there hath been but one Papiſt Succeſſor in *England* ſince the Reformation, which was Queen *Mary*, and ſhe promiſed but perfidiouſly, Liberty of Conſcience to the Proteſtants,

ſtants, and uſed their help to obtain the Crown; which perhaps if they had not afforded her, ſhe might have miſſed; but as ſoon as ſhe became poſſeſſed of the Royal Power; how faithleſly ſhe broke her promiſe to them, is well known, and with what Cruelty incited by the Biſhops prodigious in her Sex, ſhe delighted to ſee them Burning with her own Eyes; and what a Tophet ſhe made of the Land appears in the Acts and Monuments. What eyes can behold the fiery Pictures there, or read the bloody Characters of her Butcheries without tears? And ſhe had increaſed the number of them to ſo many, as no Volume could have contained, had not God in his Mercy ſhortned thoſe days. It is known likewiſe Queen *Mary* of *Scotland* likewiſe broke Promiſe and Oath, the Papiſt Faith, and Oaths were no better kept to *Proteſtants* in *Scotland*, than in *England*; of which I ſhall only mention one Example of Mr. *George Wiſchard* perſecuted to Death by the Bloody Cardinal *Beton*, as is mentioned in *Buchanan*, *Lib.* 15. *rer. Scot.* 536. and in the Hiſtory of the Reformation of the Church of *Scotland*, p. 48, *&c.* Mr. *Wiſchard* was a Diligent Preacher of the Goſpel, and moſt acceptable to the people; for which reaſon Cardinal *Beton* prohibited him to Preach, and he not deſiſting, he corrupting with Money a deſperate Prieſt named Sir *John Weighton* to kill the ſaid Mr. *Wiſchard*; and upon a Day the Sermon ended, and the People departing, no man ſuſpecting Danger; and therefore not heeding the ſaid Mr. *George* the Prieſt that was corrupted, ſtood waiting at the foot of the Steps, his Gown looſe, and his Dagger drawn in his Hand under his Gown; the ſaid Mr. *George* marked him, and as he came near, he ſaid *My friend what would you do?* and therewith he clapped his hand on the Prieſts hand where the Dagger was, and took it from him; the Prieſt abaſhed fell down at his feet, and openly confeſſed the verity as it was. The noiſe riſing, and being heard by other Company, they cryed out, *Deliver the Traytor to us, or we will take him by force*, and ſo they burſt in at the Gate; but Mr. *George* took him in his Arms, and ſaid, *Whoſoever troubles him, ſhall trouble me; for he hath hurt me in nothing, but hath done great Comfort to you and to me; to wit, he hath let us underſtand what we may fear, in time to come we will watch better.*

Queen *Mary* of *Scotland*, and her Agents there moſt perfidious and cruel to Proteſtants.

Mr. George Wiſchard a Proteſtant Miniſter, firſt indeavoured to be aſſaſſinated by Cardinal *Beton.*

The Gentlemen of the *Weſt* had written that Mr. *George* ſhould meet them at *Edinburgh*; for they would require Diſputation of the Biſhops, and that he ſhould be publickly heard, whereto he willingly agreed. The Cardinal dared not let it come to a publick Diſpute; therefore he Plots the ſecond time to kill Mr. *George*, as the ſureſt way to defend their Murdering Religion; and to that end he cauſeth a Letter to be Counterfeit in the Name of the Laird of *Keimeir*, Mr. *Wiſchard*'s familiar Friend, which deſires him with all poſſible diligence to come to him, for he was ſtrucken with a ſudden Sickneſs, and in the way layes an Ambuſh of Threeſcore Men, with Jacks and Spears to diſpatch him; but this was likewiſe diſcovered, the Cardinal vexed to be twice thus diſappointed in his wicked deſign, and got Intelligence that Mr. *Wiſchard*, lodged at the Houſe of *John Cockburne* Laird of *Ormeſton* Seven miles from *Edenburgh*, whereupon a Party of Horſe was ſent thither to demand Mr. *George* to be delivered them as a Priſoner, to be carried before the Aſſembly of Prelates at *Edenburgh*, the Laird made many Excuſes and Spun out the time it being late, hoping to paſs Mr. *Wiſchard* out at a private Poſtern to eſcape when dark, of which the Cardinal having notice by his Spies, came together which the Governour thither at an unſeaſonable hour of Night, and beſet round all paſſages whereby none could eſcape; yet neither by Promiſes, Flatteries, or Threats could he get Mr. *George* delivered into his hands, till he called thither the Earl of *Bothwell* from his Country Houſe which was near at hand, to whom it was agreed he ſhould be delivered, on which the Earl gave his Solemn Faith, and Promiſed on his Honour, that he ſhould be Safe; and that it ſhould paſs the Power of the Cardinal to do him any harm, and that neither the Governour or the Cardinal ſhould have the Cuſtody of him; but he would retain him in his own hands, and in his own Houſe, till either he ſhould make him free, or reſtore him to the ſame place whence he received him. But being Corrupted by the Cardinals Gold, and by the Queen, he moſt perfidiouſly broke his Faith and Honour, and delivered him a Priſoner into the hands of his Enemies, the Prelates aſſembled at *Edenburgh*, who having got their long ſought for prey, ſend him away to St. *Andrews* where the Cardinal had a Caſtle, as he thought Impregnable, where he was kept in hold in the Sea Tower of the ſame Caſtle, which

He lays a Second Plot for the ſame.

Mr. *Wiſchard* betrayed by truſting to the perfidious Faith of Earl *Bothwell*.

which was done in the end of *January*, *Anno Dom.* 1546. The Cardinal delayed no time, but cauſed all the Biſhops, yea all the Clergymen who had any preheminence, to be called to St. *Andrews* againſt the Seven and Twentieth day of *February*, that Conſultation might be had againſt this great Proteſtant, who had ſo dangerouſly ſhaken the Foundations of *Babel*, upon the laſt of *February*, was ſent to the Priſon, where Mr. *George Wiſchard* lay bound in Chains, the Dean of the Town, by Command of the Cardinal, to Summon him to be before the Judge the morrow following, to give account of his Seditious and Heretical Doctrine; upon the next morrow the Lord Cardinal cauſed his Servants to addreſs themſelves in their moſt Warlike Array, with Jack Knapſcall, Splent, Spear and Axe; and when theſe armed Champions, marching in Warlike Order, had conveyed the Biſhops into the Abby Church, incontinently they ſent for Mr. *George*, who was conveyed into the ſame by the Captain of the Caſtle, with the number of an Hundred Men addreſſed in manner aforeſaid, like a Lamb lead to the Sacrifice.

After a Sermon made by the Sub-Prior, concerning Hereſie, there ſtood up a Prieſt, who with great Revilings in general, and at Random againſt Mr. *George* ſpat in his face, and preſſing him to anſwer, Mr. *George* appealed to be heard before an equal Judge. To whom the Prieſt replyed, *Is not my Lord Cardinal the ſecond Perſon within the Realm, Chancellor of* Scotland, *Arch-Biſhop of* St. Andrews, *Biſhop of* Merepoſe, *Commendator of* Arbroth, *Legatus Natus*, *Legatus à Latere*; and ſo reciting as many Titles of his unworthy Honours as would have loaded an Horſe. *Is not he*, quoth the Prieſt, *an equal Judge?* To which Mr. *George* anſwered, *I deſire the Word of God to be my Judge, The Temporal Eſtate with ſome of your Lordſhips to be mine Auditors, Becauſe I am here my Lord Governors Priſoner.* Whereupon the Scornful Eccleſiaſticks who ſtood by mocked him ſaying, *Such a Man, ſuch a Judge*; meaning the Nobles to be Hereticks as well as he: Yet was there never a more juſt exception againſt a Judge, than that he is Judge in his own Caſe, and for his own Profit, for ſo appears all the 18 Articles they charge him with, to be no matters of Godlineſs; but only of gain to the Prieſt. They proceed next to the particular Articles againſt him.

Mr. *Wiſchard* Appeals to an equal Judge.

Appeals to a Temporal Judge, but denied all.

ART.

ARTICLE I.

Articles of the Popiſh Charge againſt Mr. *Wiſchard.*

THou falſe Heretick, Runnagate, Traytor, and Thief, Deceiver of the People, deſpiſeſt the Church, and in like caſe contemns my Lord Governor's Authority, and this we know of ſurety, that when thou Preachedſt in Dundee, *and was charged by my Lord Governor's Authority to deſiſt: Nevertheleſs thou wouldſt not obey, but perſeveredſt in the ſame; and therefore the Biſhop of* Breachen *Curſed thee, and delivered thee into the Devil's hand, gave thee then Commandement that thou ſhouldſt Preach no more; yet notwithſtanding thou didſt continue obſtinately.*

ARTICLE II.

Thou falſe Heretick didſt ſay, That a Prieſt ſtanding at the Altar ſaying Maſs, is like a Fox wagging his Tail in July.

ART. III.

Thou falſe Heretick Preachedſt againſt the Sacraments, ſaying, That there were not ſeven Sacraments.

ART. IV.

Thou falſe Heretick haſt openly taught, That Auricular Confeſſion is not a Bleſſed Sacrament, and thou ſayeſt, We ſhould only confeſs us to God, and to no Prieſt.

ART. V.

Thou falſe Heretick didſt ſay, That it was neceſſary for every Man to know and underſtand his Baptiſm; which is contrary to General Councils, and the Statutes of holy Church.

ART. VI.

Thou falſe Heretick, Traytor and Thief, Thou ſaydſt that the Sacrament upon the Altar was but a peice of Bread, baken upon the Aſhes,

Aſhes, and no other thing elſe, and all that is there done, is but a Superſtitious Rite, againſt the Commandment of God.

ART. VII.

Thou falſe Heretick didſt ſay, That extream Unction is not a Sacrament.

ART. VIII.

Thou falſe Heretick didſt ſay, That Holy Water is not ſo good as waſh and ſuch like, thou contemneſt Conjuring, and ſayſt that holy Churches curſing availeth nothing.

ART. IX.

Thou falſe Heretick and Rumagate haſt ſaid, That every Man is a Prieſt; and likewiſe thou ſayſt, That the Pope hath no more Power than another Man.

ART. X.

Thou falſe Heretick ſaidſt, That a Man had no free will, but was like to Stoicks, who ſay, That it is not in Man's will to do any thing; but that all Deſire and Concupiſcence comes from God, whatſoever kind it be.

This Charge he denied, That he taught Stoicism, or denied the Doctrine of free will.

ART. XI.

Thou falſe Heretick didſt ſay, It's as lawful to eat fleſh upon Friday, *as on* Sunday.

ART. XII.

Thou falſe Heretick didſt ſay, That we ſhould not pray unto Saints; but to God only, ſay whether thou haſt ſaid this or no, ſay ſhortly.

ART.

ART. XIII.

Thou falſe Heretick haſt Preached plainly, That there is no Purgatory, and that it is a feigned thing after life to be puniſhed in Purgatory.

ART. XIV.

Thou falſe Heretick haſt taught plainly againſt the Vows of Monks, Friars, Nuns and Prieſts, ſaying, That whoſoever was bound to ſuch Vows, they vowed themſelves to the ſtate of Damnation. Moreover, That it was lawful for Prieſts to Marry Wives, and not to live ſole.

ART. XV.

Thou falſe Heretick and Runnagate ſayſt, Thou wilt not obey our General or Provincial Councils.

ART. XVI.

Thou falſe Heretick ſayſt, That it is vain to build to the Honour of God coſtly Churches, ſeeing God remaineth not in Churches made by Mens hands, nor yet can God be in little ſpace as betwixt the Prieſts hands.

ART. XVII.

Thou falſe Heretick contemneſt faſting, and ſayſt thou ſhouldſt not faſt.

ART. XVIII.

Thou falſe Heretick haſt Preached openly, ſaying, That Souls of Men ſhall ſleep to the latter day of Judgment, and ſhall not obtain life Immortal until the laſt day.

He denied that he taught any ſuch thing as the ſleeping of the Soul.

All

All which Articles, though an Equal Judge, a Copy of the Accuſation, time to Deliberate, Friends, Books, and the Scripture it ſelf unjuſtly kept from him, though mocked, baited, wearied, and kept bound in Iron, in the midſt of a multitude of Enemies; yet he anſwered with ſuch Patience and Power, that as is ſaid of *Stephen*, Acts 6. 10. *They were not able to reſiſt the Wiſdom and the Spirit by which he ſpake.* But neither his Truth nor Innocency availed, the wicked Biſhops condemned him to be Burnt for an Heretick, not having reſpect to the Judgment of God. And not long after, the Cardinal ſent Two of his Hangmen to him in Priſon, where he was ſpending his time in Prayer, one of whom put upon him a Coat of Black Linnen Cloath, and the other tyed about all Parts of his Body many little Bags of Gun-Powder, and cloathed with theſe Ornaments, they bring him out of his Lodgings, to an outer Room, near the Gate of the Caſtle, and there commanded him to ſtay till he was ſent for: Then the Fire was made ready, and the Stake at the Weſt end of the Caſtle near to the Priory, over againſt the place of Execution, the Caſtle Windows were hung with rich Hangings, and Velvet Cuſhions, laid for the Cardinal and Prelats, who from thence did feed their Eyes with the Torments of this Innocent Man. The Cardinal dreading leſt Mr. *George* ſhould be taken away by his Friends, before had Commanded to bend all the Ordnance of the Caſtle right againſt the place of Execution, and Commanded all his Gunners to be ready, and ſtand beſide their Guns, unto ſuch time he was Burnt. All this being done, they bound Mr. *Wiſchard*'s hands behind his Back, and with ſound of Trumpets, led him forth with a Rope about his Neck, and an Iron Chain about his Middle, by Souldiers, to the place of their wicked and Cruel Execution, where ſcarce allowing him time to pray, the Trumpet ſounding, he was tied to the Stake, and the Fire kindled; The Captain of the Caſtle, for the love he had to Mr. *Wiſchard*, drew ſo near the Fire to incourage him, that he was hurt by the Flame. To whom Mr. *Wiſchard* anſwered, *The fire Torments my Body, but no way abates my Spirit.* And then looking towards the Cardinal, ſaid, *He who in ſuch ſtate, from that High place, feedeth his eyes with my Torments, within few Days ſhall be Hanged out at the ſame Window, to be ſeen with as much Ignominy, as he now leaneth there in Pride.* Then with

Mr. *wiſchard* Condemned by the Popiſh Biſhops and Cardinal to be Burnt for an Heretick, in a Cruel manner.

this the Executioner drawing the Cord about his Neck, ſtrangled him, and preſently after, the Fire being very great, he was conſumed to Aſhes. Wherein contrary to the Cuſtom of *Scotland*, who uſe not to Burn alive, but Strangle firſt, and Burn after when Dead; they extended the Cruelty of that Execution to two Deaths, Burning and Strangling. This was the Mercy of the Cardinal and Biſhops. But Blood cries for Blood. And as *Buchanan* goes on, *p.* 540. *Hac Sacerdotum ſupra modum Luxuriante Victoria, non promiſcuum modo Vulgus ſed plærique genere & opibus illuſtres magis irritati quam fracti, rem eò ſua ſegnitie rediiſſe indignabantur, ut præceps aliquid cum periculo eſſet audendum, aut omne cum Ignominia foret patiendum. Jam etiam pluribus & apertiùs Erumpentibus vi doloris querelis, de Cardinale tollendo coire, & ad Libertatem recuperandam aut vitam projiciendam hortari. Quam enim ſpem dignitatis reliquam fore ſub arrogantiſſimo Sacrificulo, Eodemque Tyranno Sæviſſimoque, bello adverſus deum hominesq; ſuſcepto, non inimicis modo id eſt qui aut rem haberent aut pietatem colerent; ſed quocunque eſſet leviter offenſus, eum velut pecus exhara ſuæ libidini mactaret? Quin publicè Bellum & civile & Externum alat, privatim meretricum amores Nuptiis copulet, nuptias Legitimas pro arbitrio Dirimat, Domi cum ſcortis volutetur; foris in Cæde innoxiorum & ſanguine debaccaretur.* In this ſo over Luxuriant Victory of the Prelates not only the promiſcuous Vulgar, but many Illuſtrious in Nobility and Wealth, more irritated than diſcouraged, began to diſdain Affairs ſhould run to that paſs by their ſloath, that either ſomething muſt be deſperately dared head-long, or they muſt Ignominiouſly ſuffer all that ſhould be laid upon them. Now alſo many their Complaints by Violence of their Griefs more openly breaking out, concerning taking away of the Cardinal, met together and exhorted one another either to recover their Liberty, or loſe their Lives. For what hope of Eſteem could they ever have under a moſt Proud Prieſt, and Cruel Tyrant, who fighting both againſt God and Men, drew not only his Enemies, whom he accounted all that were Rich or Religious, or any other who in the leaſt manner diſpleaſed him, as Beaſts from a Stye, to be Sacrificed to his Luſt, who when he pleaſed raiſed publickly both Foreign and Civil Wars, privately Coupled Whores in Matrimony, and what was Lawful Marriage deſtroyed at pleaſure, at home wallowed amongſt.

Mr. *Wiſchard* Burnt alive, contrary to the Cuſtom of *Scotland*.

amongſt Whores, and abroad in the Blood of Innocents. *Norman Leſly*, the Son of the Earl of *Rothes*, having had a Quarrel with the Cardinal, concerning a Promiſe which the Cardinal had made and broke to him, reſolved to be revenged, and entred into Confederacy with others to effect the ſame; and to that Intent, to prevent all Suſpition, rid himſelf with only Five Companions to St. *Andrews*, and lay at his uſual Inn; there were only Ten more in the Town of the ſame Confederacy, who waited only for Notice from *Norman*, when they ſhould joyn in the Attempt intended, with ſo ſmall a Company, being in all but Sixteen, in a Town full of the Cardinals Creatures, did he dare do ſuch an Exploit as follows; and though many purpoſes were deviſed how the wicked Cardinal might have been taken away; yet all failed but this. The Cardinal with mighty Diligence fortified his Caſtle, and imployed many Workmen therein; on *Saturday* Morning the 29*th* of *May*, the Days in that Country being very long, *Norman Leſly*, *John Leſly*, *William Kirkaldies*, and others, were in ſundry Companies in the Abby Church-yard, not far diſtant from the Caſtle, when the Gates being open, and the Draw-bridge let down to receive Lyme-ſtones, and other things neceſſary for Building, *William Kircaley* with Six Perſons getting entry, kept talk with the Porter, and asked if my Lord Cardinal were ſtirring, who anſwered No, which was true enough; for he had been buſie with Mrs. *Marion Ogleby* that Night, who was eſpyed to depart from him by a Privy Poſtern that Morning, which made the Cardinal ſleep the longer. While *William* and the Porter talked, and his Servants looked to the work and workmen, *Norman Leſly* came in with his Company, and immediately came *John Leſly* ſomewhat rudely, and four Perſons with him; the Porter fearing, would have Drawn the Bridge, but the ſaid *John* being thereon ſtaid it, and kept in; And while the Porter made him for Defence, his Head was broken, the Keys taken from him, and he caſt into the Ditch; and ſo that place was ſeized. The ſhout riſeth, the Workmen to the Number of more than an Hundred ran off the Walls, and were without hurt put forth at the Wicket. The firſt thing that was done, *William Kircaldy* took the Guard of the Privy Poſtern, fearing leſt the Fox ſhould have eſcaped; then went the reſt to the Gentleman's Chambers, and without vio-

The Surprizal of Cardinal Beton's Caſtle.

lence done to any Man, put Fifty Perſons more out at the Gate. The Number which did all this was but Sixteen Perſons. The Cardinal waken'd with the ſhouts, asked from his Window, what meant that noiſe? It is anſwered, That *Norman Leſly* had taken his Caſtle; which underſtood he ran to the Poſtern, but perceiving the Paſſage to be kept without, he returned quickly to his Chamber, took his two-handed Sword, and cauſed his Chamberlain to caſt Cheſts, and other Impediments to the Door. In the mean time comes *John Leſly* to it, and bids open, but the Cardinal requiring firſt Conditions before he would open, and the Door being very ſtrong, *John Leſly* cryed, *Fire, Fire*, at which Call was brought to him a Chimney full of burning Coals; which being perceived, the Cardinal or the Chamberlain opened the Door it is incertain, and they without thereon ruſhing in, the Cardinal ſate down in a Chair, and cried, *I am a Prieſt, I am a Prieſt, you will not ſlay me.* Then the ſaid *John Leſly*, according to former Vows he had made, ſtrook firſt once or twice, and ſo did *Peter*, but *James Melvin* perceiving them both in Choler, withdrew them and ſaid, *This work and Judgment of God, although it be ſecret, it ought to be done with greater gravity.* And preſenting unto him the point of the Sword, ſaid, *Repent thee of thy former wicked Life; but eſpecially of the ſhedding of blood of that notable Inſtrument of God Mr.* George Wiſchard; *which albeit the fire Conſumed before Men, cryes for Vengeance before God on thee. And we from God are ſent to revenge him; for here before God I Proteſt, That neither hatred of thy Perſon, nor love of thy Riches, nor the fear of any Trouble thou couldſt have done me in particular, moved or moveth me, to ſtrike thee, but only becauſe thou haſt been an obſtinate Enemy of Jeſus Chriſt, his Holy Goſpel*; and ſo he ſtruck him twice or thrice through with a Stog-Sword, and ſo he fell and never a word heard out of his mouth, but, *I am a Prieſt, fie, fie, all is gone.* While they were buſied with the Cardinal, the Fray roſe in the Town, the Provoſt Aſſembles the Commonalty, and comes to the Houſe ſide crying, *What have you done with my Lord Cardinal? Where is my Lord Cardinal? Have you ſlain my Lord Cardinal?* They were firſt anſwered gently, *Beſt it were for you to return to your own Houſes, for the man you call, the Cardinal, hath received his Reward, and will trouble the World no more*; But then more in-

ragedly

Cardinal *Beton* killed in revenge of Mr. *Wiſchard.*

ragedly they cry, *We ſhall never depart till we ſee him*; on which, his Body is ſhewn dead over the Wall, from the place, whence he had ſo proudly fed his Eyes with the burning of Mr. *Wiſchard*.

Shewed dead from the place whence he had proudly viewed the burning of Mr. *Wiſchard*.

So hear appears to the full the ſad Story of a Pious Proteſtant Miniſter, betrayed by breach of the Faith of a perfidious Papiſt, to be miſerably Burnt, and the Judgment of God on him who betrayed and Burnt him. And can any Proteſtant Miniſter, who is ſo truly in Heart as well as in Name; whoever reads the Perſecutions under Emperors, and the Perfidious Murders by Popes and Papiſt Princes, give Faith again to a Papiſt Succeſſor?

Of the Cruelties of Popiſh Prelates againſt Proteſtants.

It would amaze the moſt barbarous Nations in the World, ſhould they but hear of the Cruelties of Papiſt Prieſts towards Proteſtants; yea, thoſe *Indian* and *American* Nations themſelves, who are immediatly governed by Apparitions or Oracles of the Devil, or Pontifical Magicians, inſpired by him; for we do not hear in Hiſtory that they burn alive any for difference in Religion, or difference in Conſcience from themſelves, nor put them to ſuch Racks or Tortures, or to double Deaths of Strangling and Burning, or Strangling and Diſembowling; for the very *Mexican* Prieſts, ſo abhorred for their Butcheries of Sacrificing their Enemies to the Sun, do only ſpeedily cut open their Breaſts, and neither Strangle nor Diſmember them. The *Perſians* in the height of their Empire, though in High Treaſon did only Strangle, and neither Burn, Diſembowel, nor Diſmember; as appears in the Example mentioned, *Hiſt. Cap.* 2. 21. In thoſe days when *Mordecai* ſat in the King's Gate, Two of the King's Chamberlains, *Bigthan*, and *Tereſh* of thoſe who kept the Door, were wroth and ſought to lay Hands on the King *Ahaſuerus*, and the thing was known to *Mordecai*, who told it to *Eſther* the Queen, and *Eſther*, certified the King thereof in *Mordecai*'s Name, and when Inquiſition was made of the matter, it was found out; therefore they were both Hanged on a Tree. *Et Cap.* 7. 10. *Haman* was Hanged on his own Gallows. So the *Turk* Strangles Offendors, ſo did the *Jew*, but neither Jew, Mahometan, or Pagan, Strangle and Burn, or Strangle and Diſembowel, or Strangle and Diſmember, or lay two kinds of Deaths on the ſame Perſon, at the ſame time; but thoſe were Inventions of Papiſt.

They think one Death not ſufficient unleſs it be double.

Papiſt Prieſts, though to the Diſhonour of the Proteſtant Religion, in ſome of them their Example is too much followed; ſo that Papiſt Prieſts againſt Religion are worſe than the *Jew*, *Mahometan*, *Pagan*, yea, than the very *Indians* and *Americans*, the Devil himſelf; for though it may be doubted whether he exceed them in good Nature, Truth, and Honeſty; yet 'tis clear he doth in Wit, not to draw the Infamy of ſo much Cruelty and Perjury on his Kingdom, as they do on theirs.

Sir *John Oldcaſtle*, Lord *Cobham*, was Cruelly Burnt by the Papiſt Prelats.

In the Time of *Henry* the Fifth, Sir *John Oldcaſtle*, Lord *Cobham* was cenſured by the Biſhops, at a Synod in *London*, for maintaining of *Wickliff*'s Doctrine, which was the Proteſtant Religion; and after in a Synod at *Rocheſter*, was by the Arch-Biſhop, of *Canterbury*, pronounced to be an Heretick, and the ſame Arch-Biſhop, then Enacted by Decree, *That the Scripture ſhould not be Tranſlated into Engliſh.* But ſome mark it as a Judgment of God upon him, That his Tongue both the Root and Blade ſwelled ſo big, that he could not long ſpeak the *Engliſh* Tongue with it, for the ſwelling hindred him from ſwallowing his meat; whereby he was at laſt ſtarved, and miſerably died.

In the mean time, Sir *John Oldcaſtle*, Lord *Cobham* preſents his Belief to the King himſelf in Writing, who being then a Papiſt, and ruled by the Biſhops, they ſupplying him with great Sums of Money, refuſed it, and ſuffered him to be Condemned for an Heretick, and Committed to the Tower of *London*, whence making an Eſcape, The King promiſed a Thouſand Marks to any that ſhould bring him; But the Proteſtant Doctrine of *Wickliff*, was then ſo much favour'd by the People, that he continued 4 years after undiſcovered, till at length being taken on the Borders of *Wales*, he was brought to *London*, where he was Drawn from the *Tower* to St. *Giles*'s *Fields*, and there Hanged in a Chain by the Middle, and afterwards Conſumed by Fire, the Gallows and all. *Bak. Hiſt.* 177.

The Prelates thought *Phalaris* Brazen Bull not ſufficient Torment for a poor Proteſtant.

Another of the Followers of *Wickliff*, was Burnt by the Biſhop's Sentence in *Smithfield* in an Iron Pipe or Butt; They thought *Phalaris* Brazen Bull not Torment enough for a poor Proteſtant.

Mrs. *Anne Askew* firſt rackt, tortur'd, and her bones diſtorted, and then Burnt.

Mrs. *Anne Askew* a Proteſtant in the time of *H.* 8. was Condemned by the Biſhops; ſee herein the *Romiſh* Epiſcopal Mercy, they

they caused her, one of that weak Sex, twice to be so miserably Rackt and Tortured, that her Bones thereby was so disjoynted, that she was not able to go to the place of Execution, in *Smithfield*, whither they had Condemned her, but they carried her thither in a Chair, and set her to the Stake, and cruelly Burnt her.

A Babe Burnt with the Mother.

Neither doth the Cruelty of these Monsters spare the Innocent Babes any more than the Mothers. The Acts and Monuments relate of a poor Protestant Woman great with Child, whom the Bishop had Condemned to be Burnt for an Heretick, and whilst she was Burning in the violent Flames, the Child miraculously sprang from her beyond the Fire, and might have been saved, but the cruel Executioner threw it in again to be Burnt with the Mother.

Double deaths.

Here we see the *Romish* Bull with his two-horned Miter, gores with double Deaths; Mr. *Wischard*, with Burning and Strangling; Sir *John Oldcastle*, Lord *Cobham*, with Hanging in Chains and Burning; Mrs. *Anne Askew*, with Racking, worse than Death, and Burning; And this poor Woman, great with Child, to be Burnt once her self, and a second time in her Child.

The Cruel Massacres of Protestants of *Merindoll*.

How miserably have our Neighbours, the *French* Protestants, suffered from Cruelty of their Bishops, Inciting the Temporal Sword against them in the Massacre of *Merindoll*. *Anno* 1545. the Instrument being *Minier*, the President of the Council of *Aix*; for having Condemned this poor People of Heresie: He Mustered a small Army, and set Fire to their Villages; They of *Merindoll*, to avoid the Flame, with their Wives and Children fled into Woods, but were there Butchered or sent to the Galleys; One Boy they took, and placed him to a Tree, and shot him to Death with Calivers. 25 who had hid themselves in a Cave, were some Stifled, some Burned.

Of Chabriers.

In *Chabriers* they so Inhumanely dealt with the young Wives and Maids, that most of them died immediately after; the Men and Women they put to the Sword, 800 Men were Murdered in a Cave, and 40 Women put together in an old Barn, and Burned, *Heylin Geogr.* 79.

Of *Pitdmont*.

Anno 1655. *Emanuel* Duke of *Savoy*, caused many Cruel Massacres and Out-rages, to be Committed by his Souldiers on his Protestant Subjects, in the Valleys of *Piedmont*, for which

which there were Days of Humiliation kept in *England*, and Collections of Money made for their Relief, *Bak. Hiſt.* 644. And can the Horrid and Perfidious Maſſacres in the late Civil Wars in *Ireland* be ſo ſoon forgot, wherein as eſtimated no leſs than Two hundred thouſand *Engliſh* Proteſtants, Men and Women, and Children were deſtroyed, who lived with the *Iriſh*, not ſuſpecting the Plots of the Popiſh Prieſts, under the Truſt and Faith, of a Peace made with them, which was moſt Treaſonably by them broken.

Of *Ireland.*

Of the *Pariſian* Maſſacre with the horrid Perjury of the *French* King.

The moſt Horrid and Helliſh *Pariſian* Maſſacre, of an Hundred thouſand of his Proteſtant Subjects, Committed by that Popiſh and Perjured French King, *Charles* the Ninth, *Anno Dom.* 1572. is already mentioned, and the Inhumane barbarouſneſs of the ſame before, *Lib.* 2. *Ch.* 1. *p.* 242, 243, 244. He Swore, and Damned himſelf; and Swore over and over again he would Inviolably keep the League and Peace he had made with his Proteſtant Subjects; but when he had got them thereby to be ſecure, and Truſt themſelves in his hands, Let any ſee who will but take the pains to read the forementioned Hiſtory of that Maſſacre, how he uſed them, for truſting of him. Let any Papiſt Prince or Claimant to be a Papiſt Succeſſor ſhew by which of his Gods he will Swear, which *Charles* the Ninth did not Swear and Forſwear himſelf by, That he will give Liberty of Conſcience to his Proteſtant Subjects. And let ſuch Proteſtant Subjects as are willing to have an Hundred thouſand of them, their Wives and Children Butcher'd with Inhumane and Barbarous Tortures, while on truſt of his Oath they put themſelves into his Power, give Faith to Perjury; but let them Pardon their weaker Brethren, if they are afraid to bear them Company.

No Papiſt Succeſſor can Swear deeper.

Let Papiſt Prieſts transformed into Proteſtant Angels of Light, Preach up blind Obedience and implicit Faith to Perjury; But let them Excuſe thoſe ſheep of their Flock who know the voice of the true Shepheard, if they hear a true Proteſtant Paſtor in another Fold. Let the true Proteſtant Paſtor hear likewiſe what is ſaid, *Ezekiel* 33. 2. *When I bring the Sword upon a Land, if the People of the Land take a man of their Coaſt, and ſet him for their watchman, If when he ſeeth the Sword coming upon the Land, he blow the Trumpet, and warn the People; Then whoſoever heareth the ſound of the Trumpet, and takes not warning,*

if the Sword come and take him away, his blood ſhall be upon his own head. He heard the ſound of the Trumpet, and took not warning, his blood ſhall be upon him: but he that taketh warning, ſhall deliver his ſoul. But if the watchman ſee the Sword come, and blow not the Trumpet, and the people be not warned: if the Sword come and take away a perſon from among them, he is taken away in iniquity: but his blood will I require at the watchman's hands. And do the true Proteſtant Paſhor's Sheep, if it ſhould happen the Sword of a Papiſt Succeſſor ſhould be coming on the Land to act over again in *Great Britain* all the Murders of Proteſtants by the two *Maries*, all the Fires and Tortures on ſuch Pious Martyrs as have been in *Italy*, *Spain*, *France*, *Germany*, *England*, and *Scotland*; All the Maſſacres of *Merindol*, *Chabriers*, *Ireland*, *Piedmont*, and *Paris*; Do they think if they ſhould not awake, nor blow the Trumpets, nor give the People warning of the Imminent Dangers appearing of the Diſcoveries of their Secret Plots ſhewn by God himſelf; and of the Dangers and Deſtructions enſue thereby, that the blood of ſo many Thouſand Innocents ſhall not be required at the hand of the Watchmen? Will this be to follow the Precept of Chriſt? *Matth.* 10. 16. *Behold, I ſend you forth as ſheep in the middeſt of wolves: be ye therefore wiſe as ſerpents, and harmleſs as doves.* Is this to be wiſe as Serpents, to ſuffer the old *Romiſh* Serpent to thruſt in his head in a Papiſt Succeſſor? will he not quickly get in his Body? will this be to follow the Precept of Chriſt? *Matth.* 4. 7. *Thou ſhalt not tempt the Lord thy God.* To caſt down all Proteſtants from the Pinacles of the Temple into the fiery furnaces of Popiſh Prieſts, the incidents neceſſary of a Papiſt Succeſſor, and without warrant to expect God will ſhew Miracles to deliver them thence; is not this moſt preſumptuous wickedneſs, and a tempting of God, when God ſhews lawful means by Declaring a Proteſtant Succeſſor by Act of Parliament, to prevent any Papiſt Succeſſor whatſoever, with all the Train of Appurtenances of Popiſh Prieſts, and fiery Furnaces at their Tails? Let it be conſidered what theſe Popiſh Prieſts will probably moſt do, as long as they have hopes to advance a Papiſt Succeſſor, to bring in them and all their Inſtruments of Superſtition and Engines of Cruelty with them; Have not their Plots and Practices already diſcovered what they have intended; To Piſtol, Poiſon, or Stab the Proteſtant

Proteſtant Miniſters to give the People warning againſt Papiſt Succeſſors, or their Blood will be required at their hands.

testant King, and his Protestant Eldest Son; To make way for a Papist Successor. And what would a Papist Successor do? He would first seize upon all the Protestant Treasuries and Treasure, then on all the Protestant Armories, Arms and Magazines; on all the Protestant Forts, Cittadels, and Castles; on the Protestant Navy, and Land Militia. It is wonderful what mighty strength of Foot and Horse Q. *Mary* kept for the Train in all the Counties of *England* and *Wales*, to Oppress the Protestants ten times more than what the Protestants now keep to defend themselves against Papists; as appears 4 & 5. *P. & M. Cap.* 2. in *Rastall*'s Statutes, where it is Enacted, That every Person having 400 *l. per annum*, or above; and under the value of a 1000 Marks, shall have, find, keep, sustein, and maintain two Horses, or one Horse, and one Gelding, able for Demy-Lances, with sufficient Furniture of Harness, Steel, Saddles, and Weapons for the same, and 4 Geldings able for Light-Horsemen, with sufficient Harness and Weapons for the same; and also 20 Corslets furnished, and 20 Almain Rivets furnished; and one Stede of Almain Rivets, 20 Coars of Plate Corsets or Brigandines furnished, 20 Pikes, 15 long Bows, 15 Sheefs of Arrows, 15 Steel Caps, or Skulls, 6 Harquebusses, and 6 Morians or Sallets. So the Children of this World are in their Generation wiser than the Children of Light.

A Papist Successor will seize on all the Protestant Treasure, Arms, Fleets, Forts, &c.

The Incredible Provision for Arms by Papists in Queen *Maries* time.

Q. *Mary* a Papist Successor to K. *Edward* a Protestant, provided it seems the proportion of above ten to one more Arms to destroy Protestants, than her Protestant Successors have to defend them; for there is now but one Horse appointed for 500 *l. per annum*, whereas Q. *Mary* sets six Horses on 400 *l. per annum*; besides that Mass of Foot Arms appointed in the same Statute. And though 400 *l. per annum* might be in those times according to the intrinsick value of Silver, more than 500 *l.* now; yet the proportion of Horse and Foot layd on 400 *l.* Land then, seems ten times more than now.

If the Protestant yeild or lose Possession of Treasure or Arms, or Offices to the Papists, 'tis not to be recovered again, without a Miracle.

It is further to be Considered, That by God's Mercy the Protestant is as yet Possessor of the Treasure, Militia, and all Publick Offices; and the Protestants are by the same Mercy increased and multiplied, and grown far more numerous in *Great Britain*, and the same Mercy hath likewise given them Victories against Papists: The Protestants have by God's Provi-

Providence a Proteſtant King the Rightful Poſſeſſor of the Crown, whom God grant long to live: And hopes of a Proteſtant Succeſſor, the next Lineal right Heir of his Blood, according to the Moral Law of God, and the Law of the Land, and the Proteſtant Religion. And what is likewiſe a ſingular Mercy of God, derived from a Marriage by the Moral Law of God, and contrary, and, as is hoped, inconſiſtent with the Ceremonial Law of Marriage and Succeſſion, Papal or Epiſcopal; and therefore of a contrary Intereſt to them.

To yield therefore the right of the Law of God to the Law of Man, the right of a Lineal Heir to a Collateral, to yield the Poſſeſſion of a great Number to a leſſer Number, of a greater power to a leſſer power, of a victorious Religion to a vanquiſhed, of a proteſtant Succeſſor to a papiſt Succeſſor; were not only againſt all Piety, but Prudence; and all Laws either of Right or Poſſeſſion.

9. The Danger of ſeizing Offices by the Papiſt or his Truſtees in name of Proteſtants.

9. How great a plunge will it put the Proteſtants to, who is now in poſſeſſion of all publick Offices, if through neglect of barring his door of Poſſeſſion by an Act of Parliament, declaring a Proteſtant Succeſſor, a papiſt Succeſſor ſeeing the door left open for him ſhould ſlip in; and after he hath Treaſure, and Arms, ſhould likewiſe ſeize on the Power of publick Offices; For then may he make Sheriffs of Counties Papiſts, Mayors of Cities and Towns Papiſts; He would make all the Military Officers by Land and Sea Papiſts, Then may he cauſe to be choſen the greateſt part of Burgeſſes and Knights of Shires Papiſts; He may make Biſhops Papiſts, all Preachers Papiſts, Lords of Parliaments Papiſts; He may make Judges on the Woolſacks Papiſts, for if the Succeſſor be a Papiſt, as the Supream Officer is, ſo will all Inferior Officers be Papiſts. He may then repeal all former Acts of Parliament made againſt Papiſts, vacate all Oaths taken againſt Papiſts. The Inquiſition Office of Spiritual Courts, and *Excommunicato Capiendoes* is ready prepared for him, and he can as eaſily reſtore the *Hæretico Comburendo* Office again. Did not ſo weak an Inſtrument as a Woman, even Q. *Mary* her ſelf do all this and more, when once ſhe became a Papiſt Succeſſor to a Proteſtant King; though he had confirmed the Proteſtant Religion as much as poſſible by Acts of Parliament? How much more is a Maſculine Papiſt

Succeſſor then to be feared, whoſe Deſigns and Accompliſhments are of higher and eaſier Atchievements than any Feminine. When he ſees all this done, and the Abomination of Deſolation ſtand in the Holy place, what will then become of the miſerable Proteſtant, when by his own Supine Negligence, he ſees himſelf diſpoſſeſſed of Treaſure, Arms, Laws, and all theſe publick Offices, and Officers, which ſhould under God have protected him, and the Judgment of God come upon him, for his caſting away all thoſe Lawful means, vouchſafed him of prevention of ſo great a Judgment. *Præſtat* therefore *Cautela quam Medela*, it were a preſumptuous tempting of God, for the Proteſtant to deliver the poſſeſſion of all his Treaſure, Arms, and Offices to a Papiſt Succeſſor, when God hath given him Lawful means to prevent the ſame; for when all theſe things are once delivered into the hands of a Papiſt Succeſſor, though God ſhould by a Miracle ſend again a Proteſtant Succeſſor, how difficult and dangerous a matter it it would be to get again the power out of the Papiſt poſſeſſion, appears by the Example of Queen *Elizabeth* her ſelf. For when it pleaſed God, to give her the Kingdom, the Alteration of Religion, from Papiſt to Proteſtant in Parliament, was carried by no greater plurality, than only of ſix Voices, and the Proteſtant party, though with a Proteſtant Queen in the Head of them, was able at that time to Enact no more againſt Popery, than only two points, *viz. The Aboliſhing of the Maſs*, and the *Eſtabliſhing the Liturgy in the Engliſh Tongue*. After, Images were likewiſe removed out of Churches, and broken or burnt, *Bak. Hiſt.* 350. But the High places of the Inquiſition in Spiritual Courts, The Excommunication, *Capiendo's* and *Hæretico Cumburendo's*; The *Romiſh* Altars, and Ceremonies, which did Proteſtants more harm than Images, ſhe was not able to move; the Sons of *Zeruiah*, were too hard for her; ſo it was an eaſie matter for Queen *Mary*, who was a Papiſt Succeſſor, to loſe *Callice* to the *French*, which was done by King *Philip*'s drawing out the Strength of the *Engliſh* Garriſon Souldiers, in his Wars againſt other Towns, and the neglect of the Queens Council, to ſend Recruits, until too late; though they had notice of a Seige intended againſt them. The Town of *Callice*, which was firſt taken by *Edward* the Third, after Eleven Months Siege, was eſteemed of ſo high Import, that on

Q. *Eliz.* her ſelf not able to reſtore the Proteſtant Religion by more than ſix Voices, after the Papiſts had got Poſſeſſion.

Queen *Eliz.* not able to remove what did Proteſtants more harm than Images.

The Poſſeſſion of *Callice* once loſt, could not be again recovered.

on a Treaty of Marriage by King *Edward*, between his Nephew *Richard* of *Burdeaux*, and *Mary* a Daughter of *Charles* the *French* King; *Charles* made an offer to King *Edward* to leave him Fourteen hundred Towns, and Three thousand Fortresses in *Aquitain*, upon Condition he would render *Callice*, and all that he held in *Picardy*. But before any thing could be concluded, King *Edward* died; And the Lord *de Cordes* a *French* Lord, would commonly say, *He would be content to lye in Hell seven years, so that* Callice *were in the* French *Possession*, Bak. Hist. 240. But it seems since they got it in possession, some of them would be content to lie in Hell for ever, if Perjury will lay them there so long. For there being, *Anno Dom.* 1559. in the First year of the Reign of Queen *Elizabeth*, a Treaty of Peace between her and the *French* King, and Commissioners of both sides to that end appointed; and the Commissioners meeting accordingly, the Chief point in difference was the Restitution of *Callice*; for which the *English* Commissioners by the Queens Appointment offered to remit Two Millions of Crowns, that by just Accompt were due from *France* to *England*. At last on much Altercation, it was Concluded and Agreed, That *Callice* should remain in possession of the *French* for the term of Eight years, and those Expired, it should be delivered unto the *English* upon the forfeiture of Five hundred thousand Crowns, for which Hostages were given: But all this notwithstanding, though the Conditions were Sealed and Sworn to, and though Hostages were assigned to remain in *England* till one or other were performed; yet all was frustrate, and came to nothing, *Bak. Hist.* 351. So little Faith is there in the Oath of a Papist Prince.

Perjury in the *French* King in not restoring *Callice*.

And the same Danger will be in the delivering the possessions of Garrisons & Forts in *England* to Papists, or Papist Successor, though on Conditions Sworn to by them, & the same difficulty, yea, impossibility for a Protestant Successor to recover again the Possession of Treasure, Arms, Offices, Religion, Liberty, Propriety, as it is of Life it self, when once left to a papist Successor, though he take an Oath to preserve all these: By which, and all former Examples appears, That a papist Successor, if he happen to be, is of great Danger and Mischief to all Lay-papists themselves; but totally and inevitably Destructive to all Protestants. See other Examples of

of Perjury by Popes, Biſhops, and Papiſt Princes before, *Lib.* 2. *p.* 377.

Of the Deſtruction double to Proteſtants, if the Crown happen to fall to a Papiſt Succeſſor Female; and not prevented as before.

Deſtruction double to Proteſtants in a Papiſt Succeſſor Female.

It is before ſpoken of the Deſtruction inevitable, muſt follow to Proteſtants, if a Male Papiſt Succeſſor happen. But if a Female happen, it muſt be doubly Deſtructive; for ſhe will Marry a Foreign Papiſt Prince; ſo the Proteſtants will be left naked, and expoſed to the rage and Cruelties, both of a Papiſt, and a Foreign Sword. Hath not God given us already warning, freſh in Memory in the late Examples of Queen *Mary* of *England*, and Queen *Mary* of *Scotland*; one of whom Married King *Philip* of *Spain*, the other was ſold by Cardinal *Beton*, and Married to the *French* Dauphin? And did not God even by Miracle, though we moſt unthankfully ſo ſoon forget it, Catch this Iſland as a Brand kindled at both ends out of the Fire, and hath he in vain given Senſe, and Reaſon, and Strength to the Dull Proteſtants, ſo far to tempt him, and provoke his Judgment, as to caſt it thither again; while the buſie Papiſt hath barr'd all his Doors of Succeſſion with his Laws againſt Hereticks, and his Salique Laws, to exclude alike both Female and Male Proteſtants?

Proteſtants barr'd of Succeſſion to Papiſts by Salique Laws, yet are not Papiſts barr'd to ſucceed to Proteſtants.

(10.) The next Danger is, If no Succeſſor ſhould be Declared by the King and Parliament in regard of Foreign Princes.

10. Danger of Foreign Princes.

That Danger is likewiſe very well expreſſed in the Statute 25 *H.* 8. *Cap.* 22. To have been the cauſe of great Bloodſhed in this Realm, and to be one of the Cauſes why the King deſired to declare his Succeſſor by Act of Parliament; as appears in theſe words, *viz. And ſometimes other Foreign Princes and Potentates of ſundry Degrees, minding rather Diſſentions and Diſcord ot continue in this Realm, to the utter Deſolation thereof, than Charity, Equity, and Unity; have many times ſupported wrong Titles, whereby they might more eaſily and facily, aſpire to the Superiority of the ſame; The continuance and ſufferance whereof deeply conſidered and pondered, were too Dangerous and Perillous to be ſuffered within this Realm any longer; and too much contrary to the Unity, Peace,*

Peace, and Tranquility of the ſame; being greatly Reproachable and Diſhonourable to the whole Realm.

The not Declaring *Edgar Atheling* Succeſſor by Act of Parliament in the Life of *Edward* the Confeſſor, let in the Foreign pretence of *William* the Conqueror; which if it had been done, 'tis probable that never any *Norman* Invador had dared to have ſet his foot on *Engliſh* Ground.

William the Conqueror let in by not Declaring *Edgar Atheling* Succeſſor.

So 'tis probable the King of *Spain* had never been able to have ſeized on the Crown of *Portugal*, had not the Superſtitious *Portugueſe* inſlaved their Blood Royal, to be Judged by the Papal and Epiſcopal Laws of Marriage and Succeſſion, contrary to the Moral Law of God; whereby they left it in the Power of Popes or Biſhops; if the *Spaniard*, or any other Papiſt Prince, would give or promiſe them Money, to Legitimate, or Illegitimate whom they would, and ſell the Succeſſion to the Kingdom at what rate they pleaſed; for as appears in that Judicious Author, though *Anonymus* who writes *The Intereſt of Princes*, p. 95. The Caſe was this, *Henry* the Third Son of *Emanuel*, being according to the Papal Law, Heir to the Crown of *Portugal*, was accordingly Crowned *Anno Dom.* 1578. And being an Old Man, without Children, & ſenſible of the Diſputes would ariſe after his Death about the Succeſſion, erected a Judicature to hear and Determine the ſeveral Claims pretending to the ſame: Of which were Five, *viz.*

Philip the Second of *Spain*, ſeized the Crown of *Portugal*, by the not Declaring *Don Antonio* Succeſſor.

1. *Don Antonio* Son of *Lewis*, ſecond Son of *Emanuel*.
2. *Philip* the Second King of *Spain*, Grandchild to *Emanuel*, by his eldeſt Daughter *Iſabella*.
3. *Philibert* Duke of *Savoy*, Grandchild to *Emanuel*, by his ſecond Daughter *Beatrix*.
4. *Mary* Dutcheſs of *Parma*, eldeſt Daughter of *Edward* youngeſt Son of *Emanuel*.
5. *Katherine* Dutcheſs of *Brigance*, youngeſt Daughter of *Edward*, youngeſt Son of *Emanuel*.

Of the Exceptions Declinatory Don Antonio *might have made to this Judicatory.*

(1.) That 'twas no Convention of Eſtates Elected by the People.

(2.) That

(2.) That the Judges were Elected by the King, who became thereby Judge in his own Case; for King *Henry* was only the third Son of *Emanuel*, whereas *Antonio*'s Father *Lewis* was second Son to *Emanuel*; so he being Son of *Henry*'s elder Brother, *Henry* would be adjudged to restore the Kingdom to him, if the Judges were equal, and not of *Henry*'s chooſing.

(3.) That the Pope and Bishops were inequal Judges, they assuming the only Jurisdiction of Marriage and Succession, according to the Papal Laws, who take Bribes, and Sell the Successions of the Kingdom, and so become Judges in their own Causes; as 'tis well known in the Case of the Natural Son of *Henry* King of *Castile*, who bought a Legitimation of the Pope, and thereby excluded his Brother *Peter* born of a Canonical Marriage, after *Peter* had been admitted to the Throne, and acknowledged for King divers years.

(4.) That Pope *Julius* the Third put forth a Decree against the Promotion of Bastards, without the Assent of *Don Antonio*, or the people of *Portugal*, he ought not to be Judged by the Law of a Foreign Prelate, who thereby makes himself a Judge in his own Case.

The Reasons pretended why King Henry's *Judges Adjudged* Don Antonio *Illegitimate.*

1. Because he was a Bastard in Reputation, but what is this to the purpose? what the vulgar think, who are Educated, and blinded in Popish Superstition, and thereby neither understand what Legitimation, or Illegitimation means; Judges of Legitimation ought to be Wise men, and not Fools.

2. Because when Pope *Julius* the Third, put forth a Decree against the Promotion of Bastards, *Don Antonio* sued to be exempted, and thereby owned his Bastardy; and what is it to the purpose what a Foreign Pope, who ought to have no Jurisdiction in *Portugal* Decrees there, without the Assent of the People? or what *Antonio* did terrified with the superstitious fear of his Excommunications?

3. Because *Lewis* his Father declared him by his last Will and Testament his Bastard Son; To which it may be said, That it was *Testamentum inofficiosum*, against the Law of God, and against the Law of Nature, and void; and he himself was therein

in worſe than an Infidel, to Illegitimate him, whom in the ſame Teſtament he acknowledges to be his Son.

4. Becauſe *Lewis* never acquainted any of his Friends with his Marriage, nor told his Brother *Henry* in his Sickneſs. To which it may be ſaid, Marriage or no Marriage, is a Matter of Law, and not of Fact; and *Lewis* being a Papiſt, underſtood not what it was, but according to the Papiſt Laws, which are contrary to the Law of God: But 'tis manifeſt he acquainted his Friends, and *Lewis* himſelf, with what was Marriage and what was not; according to the Law of God, *viz.* Carnal Knowledge of the Mother, with whom he was not Prohibited to Marry by the Law of God, and begetting *Don Antonio* of her; beſides *Henry* was no Competent witneſs in his own Caſe, of what his Brother told him or not.

5. Becauſe the witneſs brought to prove the Marriage of his Mother with his Father, Confeſſed they were ſuborned thereunto. To which may be ſaid, Theſe Witneſſes prove themſelves to be Witneſſes Incompetent, and are of no value; for a ſuborned Witneſs will as well Swear falſe in his Recantation, as in his firſt Teſtimony; It being the common practice of wicked Perſons to hire Knights of the Poſt, to teſtifie at firſt, the ſame which true Witneſſes or other Lawful Probation have proved; and after diſcover they were ſuborned, to draw Suſpition on the true Teſtimony. Too much of the ſame wicked practices, have been to diſhonour the true Evidence, hath been given againſt the late Horrid Popiſh Plotters.

The Reaſons alleadged by the other Pretenders to the Crown of Portugal.

(1.) The King of *Spain*, by his Learned Lawyers alleadged againſt the Dukes of *Parma* and *Brigance*, that he was Grand-child to *Emanuel*; whereas the two Dukes were great Grand-children, and he was Couzin German of the firſt Degree to *Henry* the preſent King in Poſſeſſion, whereas they were only Couzin Germans of the ſecond Degree; and ſo the next Degree of Conſanguinity was to be preferred before a more remote Degree, and this the Civilians pretended to be a ſtrong Argument in their Law.

Grandchild by a Daughter, and great Grandchild by a Son. Couzin German of the firſt Degree by a Daughter, and of the Second by a Son.

(2.) That when *John* the Base Son of *Pedro*, was Crowned King of *Portugal*, it was to the Injury of the King of *Castile*, the right being in him, as having then Married *Beatrix*, the Legitimate Daughter and Heir of *Ferdinando* King of *Portugal*, Legitimate Son of *Pedro*, and Bastard Brother to *Ferdinando* Father to *Beatrix*.

(3.) Because *Portugal* was given away by a former King of *Castile*, in Marriage with one of his Daughters, contrary to the Law of the Land.

Son of the eldest Daughter of the Son, and Son of the eldest Daughter of the Father.

The Duke of *Parma* pleaded by *Farneso* Bishop of *Parma*, That being Son of the eldest Daughter of *Edward* fourth Son of *Emanuel*, he ought to be preferred before the King of *Spain*, being but Son of a Daughter of *Emanuel*; and therefore he deriving from the Male Line, ought to be preferred before him who derives only from the Female.

Alien, and Native Born.

The Duke of *Brigance* pleaded his Cause himself, and against *Spain* alleadged the same as *Parma* did, and to Bar *Parma*, who was descended from the eldest Daughter, as himself was from the younger; Pleaded that *Parma* was an Alien, because an *Italian*, and he a Natural-born *Portuguese*.

The Duke of *Savoy* pleaded his Cause by *Charles Renero*, afterwards a Cardinal; but he being descended from a younger Daughter of *Emanuel*, as the King of *Spain* was from the eldest, he was presently excluded, as having no colour of Right.

Besides these Pretenders, Queen *Catherine* of *France* would have put in her Claim, as descended by her Mother from *Alphonse*; but the Claim being groundless, they denyed to receive it, and so the dispute remained between the King of *Spain* and the two Dukes of *Parma*, and *Brigance*; But King *Henry* dying while the business was in hot debate, and before he had decided the Controversie, the King of *Spain* making himself Judge in his own Case, seized on the Kingdom; which he, his Son and Grandson injoyed, near Threescore years after.

King Philip Claimed his own Kingdoms from Natural Children, but would not allow it in others.

Had *Antonio* been allowed equal Judges, or the Law of God been the Rule of their Judgment, or had he been allowed to have pleaded the Law of the Land, and Custom of both *Portugal* or *Spain*, for Natural Sons to succeed the Crown, he needed not have looked for more Examples of Natural Children, than those

thoſe from whom King *Philip* himſelf derived his many *Spaniſh* Kingdoms; and according to the Cuſtoms of *Portugal*, *Don Antonio* was on the Death of *Henry* choſen, and Crowned King of *Portugal*, at *Lisbon* their chief City, till *Philip* ſent the Duke of *Alva* thither with a greater Army than the *Portugueſe* had, put *Don Antonio* to flight, whom the People had Elected King, and within Seventeen Days ſubdued all *Portugal*. *Don Antonio* thereon flyes into *England*, where he is kindly received of Queen *Elizabeth*, as deſcended of *Engliſh* Blood, and of the Houſe of *Lancaſter*, and having entertained him here divers years, his Title of being right Heir to the Crown of *Portugal*, is ſo far approved by the Queen and Council, and the Proteſtant Doctrine, That ſhe gave leave to Sir *John Norris*, and Sir *Francis Drake*, to undertake an Expedition at their own private Charges, requiring nothing of her, but a few Ships of War, who took along with them *Don Antonio*, the Heir of the Kingdom of *Portugal*, and of Souldiers Eleven Thouſand, and of Seamen about Fifteen Hundred. And ſetting Sail from *Plimouth* the Fifth day of *April*, they arrived at the *Groyne* of *Galizia*, whereof with great Valour they took firſt the Lower Town, and afterwards the Higher; and after Sailing towards *Portugal*, they met *Robert* Earl of *Eſſex*, who without the Queens leave, had put to Sea; after two days they arrive at *Penycha* a Town of *Portugal*, which they took, and left the Caſtle to *Don Antonio*. And from thence they march by Land towards *Lisbon*, Threeſcore Miles off; the Foot Companies led by *Norris*, whom *Drake* promiſed to follow with the Fleet, being come to the Weſt Suburbs of *Lisbon*, they found no body there, but a few poor diſarmed *Portugals*, who cryed out, *God ſave King* Antonio. The day following, the *Spaniards* made a Sally, in which Skirmiſh *Bret*, *Careſly*, and *Carre*, three ſtout Commanders were Slain; yet did the Earl of *Eſſex* drive the *Spaniards* to the very Gates of the City. And now having tarried here two Days, and no likelihood of the *Portugals* revolting, which *Don Antonio* had hoped (but was not probable, that the ſtrict hand of the King of *Spain* then in full Poſſeſſion on them, ſhould give them that Liberty) finding freſh Supplies to come into the Town, their own Army Sickly, Victuals and Powder failing, and what was moſt of all, Sir *Francis Drake* not bringing the great Ordnance, as he promiſed; They de-

Don Antonio a Natural Son, Crowned King of *Portugal*.

Overcome by *Philip*, flyes to *England*.

Queen *Elizabeth* approves his Title as right Heir to *Portugal*.

parted from the Suburbs of *Lisbon* towards *Caſcais*, a little Town, at the Mouth of the River *Tagus*, which Town *Drake* had taken this mean while; who excuſed his not coming to *Lisbon*, by reaſon of the Flats he muſt have paſſed, and the Caſtle of St. *Julian* Fortified with Fifty Pieces of great Ordnance. Near this Place, they found Threeſcore Hulks of the Hans-Towns of *Germany*, Laden with Corn, and all manner of Munition, which they took, as good Prize towards their Charges, in regard the Queen had forbidden them to carry Victual and Munition to the *Spaniard*. From hence they ſailed to *Virgo*, a Forlorn Town by the Sea-ſide, and Pillaging all along that Quarter, returned for *England*, having loſt in the Voyage Soldiers and Marriners about Six thouſand; yet not ſo much by the Enemy, as eating ſtrange Fruit, and Diſtemper of the Climate; on which I ſhall only further obſerve, That Kingdoms are not ſo eaſily got again, as they are loſt, and that the Diſinheriting of the Natural Heir of the Crown of *Portugal*, was the cauſe of the ſeizure, and Conqueſt by the *Spaniard* of that Kingdom.

Antiquated Genealogies uſed to be raked up by Foreign Princes.

Foreign Princes, when the Succeſſor is uncertain, will ſtir up ſo many antiquated Genealogies, that every one may pretend a right to the Crown, and it hath been already mentioned, that there were no leſs than Five or Six to the Crown of *Portugal*; no leſs than Ten Titles Foreign and Domeſtick in *Scotland*, in the time of *Baſiel* and *Bruce*; and no leſs than Sixteen in *England* before the Death of Queen *Elizabeth*; and how far Papiſt Foreign Princes will go, when they have none nearer to draw Genealogies as high as the Man in the Moon, and when they have no ſubſtance to raiſe the Ghoſts of Titles again from their old Purgatories, nor Kif nor Kin, to the laſt Poſſeſſors, appears by the next Example.

Hacket endeavours to raiſe a Papiſt Title to the Crown.

Richard Hacket, was ſent from the *Engliſh* Fugitives beyond Sea, in the Reign of Queen *Eliz.* to perſwade *Ferdinando Stanly* E. of *Derby*, Son to *Henry* newly Deceaſed, to aſſume the Titſe of the Kingdom of *England*, by right of Deſcent from *Mary* Daughter to *Henry* the Seventh; and threatning him unleſs he undertook the Enterprize, and withal concealed him the Abettor, he ſhould ſhortly die in a moſt wretched manner: But the Earl fearing a Trap was laid for him, revealed it, and *Hacket* was thereon Condemned, and Executed for Treaſon; but this

Fellow's

Fellow's Threatnings proved not vain four Months after; for then the Earl being in the Flower of his Age, was miſerably Tormented, and Vomited Stuff of a dark ruſty Colour; being thought to be Poiſoned or Bewitched; There was found in his Chamber, a little Image of Wax, with Hairs of the Colour of his Hair, which ſome thought was done on purpoſe that men ſhould not ſuſpect him to be Poiſoned; his Vomit ſo ſtained the Silver Andirons, that it could never be gotten out; and his Body though put in Cere-Cloths, and wrapped in Lead, did ſo ſtink and putrifie, that for long time none could endure to come near where he was Buried, *Bak. Hiſt.* 402.

When good Correſpondence between Queen *Elizabeth* and King *James* of *Scotland*, gave the Papiſts ſmall hopes that ever he would prove an Inſtrument to reſtore the Catholick Religion, they begun thereupon to bethink themſelves of ſome *Engliſh* Papiſt that might ſucceed the Queen; but finding none of their own Sect a fit Perſon, they fixed their thoughts on the Earl of *Eſſex*, who always ſeemed a very moderate Man, and him they adviſed to have ſome right to the Crown, by Deſcent from *Thomas* of *Woodſtock*, King *Edward* the Third's Son. But the *Engliſh* Fugitives were for the *Infanta* of *Spain*, and deſiring to ſet the King of *Scots*, and the Earl of *Eſſex* at odds, they ſet forth a Book which they Dedicated to *Eſſex*, under the Name of *Doleman*; but was written indeed by *Parſons* (*Doleman*'s bitter Adverſary) Cardinal *Allen*, and *Francis Engleſield*; the Scope of which book was, to exclude from Succeſſion all Perſons whatſoever, and how near ſoever, unleſs they were *Roman Catholicks*; contending farther for the Right of the *Infanta* of *Spain*, as being deſcended from *Conſtance* Daughter of *William* the Conqueror, from *Eleanor* Eldeſt Daughter to *Henry* the Second, Married to *Alphonſe* the Ninth King of *Caſtile*, from *Beatrix* Daughter to King *Henry* the Third; ſo if the Proteſtants will not take the pains to declare a Succeſſor for themſelves, 'tis plain the Foreign Papiſt Princes, will declare one for them to the purpoſe; and firſt they declare for Religion, he ought not to be a Proteſtant, but a Catholick; Then for Blood, he ought not to be a *Britiſh*, but a Foreign Blood. And in all Countries the Pope's Laws ſhall be a Salique Law, to exclude Proteſtant Blood from Catholick Dominions, and to intitle Catholick Blood to Proteſtant Dominions, ſo as if

Engliſh Fugitives ſeek to ſet up a Title for the *Infanta* of *Spain*, and to exclude all Proteſtants from the Crown.

Foreign Papiſt Princes will declare a Succeſſor for the Proteſtants, if they ſhall not declare one for themſelves.

Proteſtant Princes Marrying foreign Papiſts, ſhall loſe their own Kingdoms, but not gain theirs

if Proteſtant Princes Marry with Catholicks, they muſt play all againſt nothing. Moſt Excellent Nonſence in the Papiſt Law of Succeſſions.

II. Danger of Counterfeit Wills and Teſtaments.

It expoſes Succeſſion to Counterfeit Wills and Teſtaments.

Though the Law is ſufficiently clear, That Kingdoms which are Publick Offices of Truſt, are not deviſable by laſt Will and Teſtament, as private Inheritances are; yet becauſe the Papiſt Power of the Sword may pretend to any thing unleſs the Proteſtant Subjects have an Act of Parliament declaring a Proteſtant Succeſſor, as a Sheild under God to defend themſelves againſt it, the ſame will be neceſſary to prevent even this Danger likewiſe. For what Monarch or Emperor is ſo great, as when ſickneſs hath arreſted and bound him with the fatal Cords of his Death-Bed (where every Woman, every Prieſt, every Doctor are his Gaolers) can promiſe himſelf Liberty to make a free Will? Yea, that he ſhall not have leſs than a private Subject, when his Keepers ſhall make uſe of his own Publick Name and Authority againſt himſelf, to exclude from him thoſe faithful Friends, who will force their way through to relieve a private Perſon from thoſe Furies of his Bed which Torment him: Or how can he promiſe himſelf, though he make his Will in his perfect Health, that as ſoon as he is dead it ſhall not be deſtroyed? For did not *H.* 8. uſe all the Caution poſſible to ſecure his Will after his Death? Had he not an Act of Parliament which gave him Power to Nominate Succeſſors by his Will, and made it High Treaſon for any to prejudice the Titles of the Perſons ſo Nominated? Did he not ſolemnly inrole it in Chancery? yet when before the Death of Queen *Elizabeth*, an inquiſition was made after the Will of *H.* 8. to ſee whom he had Nominated to ſucceed, in caſe ſhe ſhould happen to dye without Iſſue, they found the ſame to be taken by Bribe, or Stoln off the Curſitors File by ſome who intended to advance their own Title; for there were Sixteen Titles then on foot, *Osborn. Tit.* Queen *Eliz.* 99.

The Will of *H.* 8. ſtoln off the file where inroled.

Plotina the Empreſs, Wife of the Emperor *Trajan* who was with him at his Deceaſe, in regard ſhe had a great favour for young *Adrian*, Plotted with him to help him to the Empire; and

Adrian got the Empire by a Counterfeit Will.

and to that end, feigned that *Trajan* had adopted him for his Son, and ſhewed a Counterfeit Inſtrument or Writing to that Effect; which matter was ſo cunningly handled, that it took ſuch effect as ſhe deſired. And the Army preſently ſwore Obedience to *Adrian*, notwithſtanding he was abſent at *Antioch* in *Syria*, where he was left General, who being advertiſed thereof, and the Legions whereof he was General conſenting thereto, he preſently wrote to the Senate, intreating to be Confirmed in the Empire. And when the Senate had received his Letter, and underſtood what had paſſed, his Requeſt was eaſily granted; for there was no denyal by old Men to young Men when once they had given ſo great a ſhare of the Sword as they had not reteined a greater in their own hands, wherewith to recall the ſame when they thought good.

William the Conqueror likewiſe pretended a Will and a Promiſe of the Kingdom of *England* from *Edward* the Confeſſor; which though *Edward* notwithſtanding his Holineſs had no Authority, or any thing to do, to give away from the Right Heir *Edgar Atheling*, nor to enſlave the Land to a Foreigner; yet its known how ill effect theſe Pretences had, and the ſame might have been prevented if *Edgar* had been declared Succeſſor by Act of Parliament in the life-time of *Edward*.

William the Conqueror pretended a Will and Promiſe, and thereby excluded *Edgar Atheling* the right Heir.

It incourages Uſurpers.

12. Danger of Incouraging Uſurpers.

For the aſcertaining the Heir by Supreme Authority, wherein both the Aſſent both of the King and People is included takes away, and the not aſcertaining feeds Pretenders and their Parties with hopes. So *Tacitus lib.* 3. *Annal. Sic Cohibere pravos aliorum ſpes rebatur*, by declariug a Succeſſor in certain, he thought the wicked hopes of others were Checkt; and in another place, *Plena Cæſarum Domus, Juvenis filius, Nepotes adulti moram cupitis Sejani adferebant*; his Houſe full of *Cæſars*, his Son in Strength of Youth, his Nephews grown up, deterred the Ambition of *Sejanus*. And the beſt remedy King *David* uſed againſt *Adonijah* Proclaiming himſelf, was to Proclaim *Solomon*.

In

13. Danger.

In Titles Doubtful, it leaves an *Interregnum*.

The infinite miſchiefs of *Interregnums*, either on doubtful Titles of Succeſſions, or on doubtful Powers or Elections appearing in Hiſtories, are too many to be here recited; and leſt ſome ſhould be ſo far deceived as to believe there can be no *Interregnum* by the Law of *England*, he is deſired not to place his Faith in the Fictions of Lawyers, That the King never dyes, and there is no *Interregnum*, leſt if by not declaring a Succeſſor in his Life-time, whom God grant long to live; the contrary Effects appear when it will be too late to provide a Remedy.

It Cantons Kingdoms.

14. Danger of Cantonizing Kingdoms.

For ſo writes *Juſtin* of *Alexander* the Great. *Alexander rogatus quem Hæredem faceret Imperii, reſpondit digniſſimum; qua voce veluti Bellicum inter Amicos cecinisſet, aut malum diſcordiæ immiſiſſet; ita omnes in æmulationem conſurgunt, & ambitione vulgi tacitum favorem Militum.* *Alexander* being asked whom he would make Succeſſor to his Empire, anſwered, *The moſt Worthy*; By which, as though amongſt his own Friends, he had ſounded a Charge to Battel one againſt another, or had thrown the Apple of Diſcord amongſt them, ſo did they riſe together in Contention, and by courting the vulgar ſeek the ſecret favour of the Souldiers, and afterwards Canton'd out to themſelves ſeverally all the Provinces of the Empire. *Ptolomy* ſeized *Egypt*, and *Cyrene*, *Laomedon Syria*, *Phylotus Cilicia*, *Pitho Media*, *Eumenes Capadocia*, *Antigonus Pamphilia*, *Licia* and *Phrigia* major, *Caſſander Caria*, *Minander Pontus* and *Phrigia* minor, *Leonatus Aſſyria*, *Seleucus Perſis*, *Lyſimachus Thrace*, *Antipater Macedonia*. The other Parts of the *Perſian* Empire being left in their hands, unto whom *Alexander* in his life-time had intruſted them. And the reaſon of this pulling to pieces of the Empire was, becauſe as *Curtius* ſaith, *Sine certo Regis Hærede, ſine Hærede Regni Publicas vires ad ſe quemq; tracturum*, without a declaring in certain of the Heir of the King, and of the Heir of the Kingdom, every one will catch what he can of the Publick ſtrength to himſelf, and to what purpoſe but to deſtroy himſelf by deſtroying the Publick?

Publick? For this Diviſion continued not long, neither would it have done though they had been all Brothers; for every one thinks his ſhare is not equal to his worth, when they have no publick Judge to judge equally between them; and in the end, the greateſt part of them by Mutual Wars deſtroyed one another, and left their ſhares for a prey to their Enemies. *Clapmarius* as to this Deſtruction enſuing the not declaring of a Succeſſor, ſaith farther, *Sumo hoc pro arcano Regio adverſus Regni Proceres, ubi enim Succeſſor in incertò eſt ibi facile ad priſtinum ſtatum relabitur, ut olim Caroli Magni ſtirpe ſublata cum poſtremus Germanorum Rex Neminem adoptaſſet, Regnum momento Devolutum eſt ad quinquaginta quatuor Imperii Principes. Sic Longobardi Mortuo ſine Legitimo hærede Cleophonio in Populi poteſtatem lapſi ſunt. Et in Polonia poſt quam ſtirps Lechi defeciſſet Comitiis de Conſtituenda Republica habitis Regnum duodecim invaſerunt Nobiles. Et rurſum cum ſtirps Craci defeciſſet ad eandem Oligarchiam eadem occaſione reverſi ſunt.* I take this for an *Arcanum* of Kings againſt their great Men; for where the Succeſſor is not declared in certain, a Common-wealth doth eaſily relapſe to its Original confuſion. As when the Iſſue of *Charles* the Great failed, and the laſt Emperor of the *Germains* had Adopted no Succeſſor, the Empire in a Moment fell into the hands of Four and fifty Princes of the Empire. So the *Lombards*, *Cleophonius* their King being dead without Lawful Heir fell into the hands of the People. And in *Poland* after the Iſſue of *Lechus* failed, there being a Convention of Eſtates to conſtitute a Common-wealth, Twelve Nobles ſeized on the Kingdom. And again, when the Iſſue of *Cracus* failed, they fell back again on the ſame occaſion into an Oligarchy.

It Expoſeth the Succeſſion of Kingdoms to Sale.

15. Danger of expoſing the Succeſſion to Sale.

Buch. Rer. Scot. lib. 7. pag. 206. ſaith, *Mackbethus ut Regnum male partum ſtabiliret, potentiores Magnis Largitionibus ſibi conciliat, ſecurus de Regis liberis ob ætatem, de vicinis Regibus ob Mutuas ſimultates, Potentioribus delenitis Populi favorem æquitate parare ſeveritate retinere decrevit.* *Mackbeth* that he might Eſtabliſh his ill-got Kingdom, binds to himſelf the great Men by great Gifts, being at that time ſecure from the King's Children, in regard they were under Age, and from the Neighbouring Kings by

Miſchiefs of buying Crowns to Princes themſelves.

their mutual Quarrels one with another, having obliged the great Ones, he resolved to catch the People with Equity, and to keep them with Severity. In the time of *H.* 3. *Richard* Earl of *Cornwall* begging the King's Brother, and *Alphonsus* King of *Spain*, were each Competitors to be elected to the Empire of *Germany*. And the Seven Electors were ready to elect him who would give most to Buy it. In the end *Richard* being in Person in *Germany* and nearest at hand, and his Money readiest; he is preferred by the Bishop of *Mentz*, the Bishop of *Cologne*, and the *Palsegrave*, whose Voices he is said to have bought; and was thereupon Crowned Emperor at *Aquisgrave*: And to reimburse himself of the great Sums he had disburst, and to confirm his Estate, he was set on by his Salesmen and Courtiers, who expected likewise to have a share in Purchase. And proceeded in all Violent and Hostile manner against those who opposed his Election, and having consumed himself by excessive Gifts to Buy Suffrages and Assistants; and by this Prosecution he came to be again dispossessed and forsaken, and with the loss of his Money, and contracting Debts; besides, he was forced to return home to *England* to his Brother, who was then in War with his Nobles, *Dan. Hist.* 174. It were infinite to recite all the Buyers and Sellers of Successions to Kingdoms, there having rarely been any Age or Nation wherein the Simony of Churches and Kingdoms hath not been alike common, either by the Priest, Nobles, or Souldiers, and corrupted both the Divinity and Justice of both, except where an House of Commons hath had an hand in the Actual declaring the Successor; when therefore a Successor is not declared by Act of Parliament, but left to buy his Right, these horrible Mischiefs ensue. First, To the Prince himself. Secondly, To the People. As to the Prince himself, these Mischiefs ensue.

Empire of *Germany* exposed to Sale to *Richard* Earl of *Cornwall*, and *Alphonsus* King of *Spain*.

Simony in Churches and Kingdoms, corrupts Religion and Justice in both.

(1.) If to buy a Kingdom he is known to give Donatives or Pensions, he raises a greater Party against him than he can oblige for him; for if he give a Donative or Pension to one, he can oblige only that one; but for him disobliges an hundred.

(2.) No Person that receives a Bribe can be obliged by that Bribe, because what he doth is for Money, and not for Conscience; and if any offer him another Bribe, he will as readily be for the last giver, as he was for the first; for the first giver of Money cannot take his Gift from him again: And the Mercenary,

cenary, if he hath but half ſo much given by the ſecond giver as the firſt, will think he ſhall be richer with a Gift and half, than only with a ſingle Gift. Hence it is that,

Perdurat non empta fides, nec Pectora merces
Alligat. Claudian.

Bought Faith indures not, nor will hire bind
The Traitor's heart, if greater hire he find.

And the *Roman* Mercenaries who were corrupted with great Donatives by one Emperor, before he was ſcarce warm in his ſeat, uſed to kill him, and if a new offered another Donative, ſet up him for the like time, till another offered them a new Donative. And ſo they perpetually Murdered them from Generation to Generation. It's true, many good Princes have been compelled to buy their Rights; and better it were they did ſo, than the ſame ſhould be taken from them by one that hath no Right; but this can only be underſtood where there is a Neceſſity, and no Remedy: But where God is pleaſed to offer a juſt King, and a juſt Parliament to Judge equally, there is no Neceſſity of uſing any unjuſt means, though to obtain Right.

(3.) If a Prince buy not with ready Money, or Donatives given in Poſſeſſion, but oblige himſelf in future Promiſes, if he obtain the Kingdom, the Mercenaries are ſo many who will expect to be promiſed, and their Nature ſo unſatiable, That no Prince can be ſo rich who is to obtain, nor can any Kingdom be ſo rich when it is obtained, as to be able to ſatisfie a ſmall part of them, and who fail of their Expectation turn Enemies. As *Rich.* 3. promiſed the Duke of *Buckingham*, if he obtained the Kingdom, very great Rewards; but after he was King failed to perform the ſame, the Duke of *Buckingham* became his Mortal Enemy, and King *Richard* paid his Promiſes by cutting him off for Treaſon, when he had firſt ruined *Richard*, by laying the Plot for *Henry* the Seventh.

(4.) If the Kingdoms are left expoſed to Sale, a Papiſt Succeſſor will be richer than a Proteſtant; and ſo carry it by Money, though not by Right.

Impoverisheth the Prince.

(5.) It impoverisheth and weakens the Prince and his Posterity. So the *German* Emperors have impoverished and weakened themselves by giving away so many Royalties to 7 Electors to buy them in Elections; That the Electors are greater than they.

The Mischiefs as to the People are.

Mischiefs of buying Crowns to the Subject.

(1.) The Sale of the Successions of the Three Kingdoms, and buying of them Destroys all Religion and Justice among the People; for your Kingdom-Sellers usually receive a great share of their Money out of the Power, they Contract to have of the Sale of all Publick Offices of Gain, both Ecclesiastical and Temporal; If therefore Bishops and other Ecclesiastical Persons buy their Offices, they will neither Form nor Preach any Divinity, but for Gain. If Temporal Judges, or other Judicial or Ministerial Officers buy their Offices, those who buy will sell, and take Bribes; and none shall have Justice unless he buys.

In *Turky* all the great Officers buy their Places of the Grand Seignior, whereby they run themselves into great Debts; which they rake out again of the poor People, by all manner of Rapine and Oppression. And though the fame is of the Great *Turk*'s great Severity on the Bribery of Judges; yet no Courts in the World are more corrupt for that Vice than they: For what colour can the Emperor have to punish those Thieves to whom he himself is accessary, by selling their Licences to Rob at so dear a rate as he usually puts them to buy, and will afterward take the whole spoil if it grow to any bulk?

(2.) The Exchequer will be ingaged under unsupportable Debts, and charged with Pensions to a Multitude of Pretended Claimants of Promises, which will totally exhaust the Publick Treasure, load the People with insupportable Burdens and Taxes, and destroy all the Military Defence of the Kingdoms by Sea and Land for want of Pay.

(3.) Kingdom-Sellers will usually have Commissions to take all Penalties on the Penal Statutes, to Dispense and Pardon Offences against those Statutes, and to Pardon or make Composition for the Penalties, which Penal Statutes concerning both Religion, Justice, Trade, Military Affairs, and the whole Policy of the Kingdom will be totally subverted by Money, by such said Kingdom-Sellers.

It

It Expoſes the Kingdom to Conqueſt.

16. Danger of expoſing this Kingdom to Conqueſt.

For if a Succeſſor is not declared by King and Parliament, a Multitude of Competitors may ariſe, and having no Judge of greater Power than themſelves do try their right by Battel, and Civil Wars, wherein he who Joyns will declare himſelf a Conqueror; from which theſe two Miſchiefs will ariſe.

(1.) There cannot be a free Parliament, for the Sword will awe and over-power the Elections both of Burgeſſes and Knights; and when they come to ſit, the greateſt part of the Members will be Military Officers. The Conqueror will grant no Law except for Money, and the Army will have a Negative Vote on the Parliament.

(2.) All the Nation, eſpecially the Rich and Noble which happen to be of the ſide that is Vanquiſhed, whether right or wrong, will be either Fined or Confiſcated, and many of their lives taken by their own Brethren of the ſame Religion and Nation; and therefore it moſt concerns the Nobles, and not the Poor, to prevent Civil War, as is viſible in all the Victories obtained between the Houſes of *York* and *Lancaſter*, wherein both Princes and Nobles deſtroyed one another, and ſet up their Heads upon Poles by turns. And it was the uſual ſaying of *Edward* the Fourth in all the Battels he fought, *Kill the Nobles, but ſave the People*.

Some further Examples of declaring Succeſſors follow, beſides what before mentioned; To this purpoſe of declaring a Succeſſor by Parliament, *Grot. de Jur. Bel. & Pac.* 111. ſays, *Sic Euphaes Rex Meſſeniis permiſit diſpicere quem ex Regali Æpitidarum genere Regnaret. Et de Xerxis & Artabazanis Controverſia Populus Cognovit. Et* 179 *ſive in conventu ordinum ut factum in Anglia & Scotia, teſte Cambdeno; ſive per Delegatos ad id Negotium, ut factum in Aragonia, teſte Mariana lib.* 20. So King *Euphaes* permitted the *Meſſenians* to conſider who ought to Reign of the Royal race of *Epitidæ*. And the People of *Perſia* had Conuſans of the Controverſie between *Xerxes* and *Artabazanes*; Or the ſame is determined in Parliament, as *Cambden* teſtifies is done in *England* and *Scotland*, or by Delegates of the People as *Mariana* teſtifies *lib.* 20. was done in *Aragon*. So King *Edward* the Third, the Wiſe Author of this great Statute whereon this Diſcourſe hath proceeded to prevent Civil Wars

Some further Examples of declaring Succeſſors by Parliament.

on

on any doubt arising on Succession to the Crown, not only declared his eldest Son by this Statute; but likewise he happening to Die in his Father's Life-time, caused (to prevent all farther Scruples) his Grandchild *Richard* of *Bourdeaux*, to be declared Successor by Act of Parliament.

Moses Declares a Successor.

Moses being told that he should die, *Numb.* 27. 15. desireth God to declare a Successor. *And Moses spake unto the Lord saying, Let the Lord the God of the spirits of all flesh, set a Man over the Congregation, which may go out before them, and which may go in before them; and which may send them out, and which may bring them in. That the Congregation of the Lord be not as sheep which have no shepheard. And the Lord said unto Moses, Take thee Joshua the Son of Nun, a Man in whom is the Spirit, and lay thine hand upon him, and set him before Eleazer the Priest, and before all the Congregation, and give him a Charge in their sight; and thou shalt put some of thine Honour upon him, that all the Congregation of the Children of Israel may be Obedient. And he shall stand before Eleazer the Priest, who shall ask counsel for him after the Judgment of Urim before the Lord, at his word shall they go out, and at his word shall they come in, both he and all the Children of Israel with him, even all the Congregation. And Moses did as the Lord commanded him, he took Joshua and set him before Eleazer the Priest, and before all the Congregation; and he laid his hands on him, and gave him a Charge, as the Lord commanded by the hand of Moses.*

Here appears that *Joshua* is declared Successor by Counsel from God by *Moses*, and the Priest, and the Assent of the People; and it's very likely, if a Successor had not been declared, the People would have fallen together by the Ears as soon as *Moses* had been Dead. And as is usual in all Armies divided, the Government by Military Elections, and recourse to the Sword to be Judge, whereby they had never Conquered the *Cananites*, but the *Cananites* them.----

David Declares a Successor.

King *David* likewise to leave his House and Kingdom in Peace, and to prevent Civil Wars, declares *Solomon* his Successor, and Inaugurates him while he was yet alive, 1 *Kings* 1. 32. *And King David said, Call me Zadock the Priest, and Nathan the Prophet, and Benaiah the Son of Jehoiadah; and they came before the King, and the King said unto them, Take with you the servants of your Lord, and cause Solomon my Son to ride upon my*

own

own Mule, and bring him down to Gihon, and let Zadock the Prieſt and Nathan the Prophet anoint him there King over Iſrael, and blow ye the Trumpet and ſay, God ſave King Solomon, Then ye ſhall come up after him, that he may come and ſit upon my Throne, for he ſhall be King in my ſtead. And I have appointed him to be Ruler over Iſrael, and over Judah. And Benaiah the Son of Jehoiedah anſwered the King and ſaid, Amen. The Lord God of my Lord the King ſay ſo too; As the Lord hath been with my Lord the King, even ſo be he with Solomon, and make his Throne greater than the Throne of my Lord King David. So Zadock the Prieſt, and Nathan the Prophet, and Benaiah the Son of Jehoiedah, and the Cherethites, and the Pelethites went down, and cauſed Solomon to ride on King David's Mule, and brought him to Gihon: And Zadock the Prieſt took an horn of oyl out of the Tabernacle, and annointed Solomon; and all the People came up after him, and the People piped with Pipes, and rejoyced with great Joy; ſo that the Earth rent with the ſound of them.

FINIS.

Errata's in Verſe.

LIb. 1. p. 131. line 5. for *Moon* read *Morn*, p. 135. l. 36. for *leaſe* r. *ceaſe*, p. 223. l. 28. for *I ſte* r. *is with me*, p. 224. l. 9. for *all* r. *ſuch*, p. 225. l. 8. for *thanks* r. *there*, and in the ſame line after, for *there* r. *and*, l. 39. for *lightnings* r. *lightning*, p. 228. l. 5. add the word *(next)* before the word *(expel)* p. 392. l. 11. for *who burn would not ?* r. *who burn would ?* Lib. 2. p. 239. l. 31. for *Mariners* r. *Mariner*, l. 36. for *why* r. *who*, Lib. 3. p. 89. l. 8. for *their* r. *them*, l. 16. for *not babling* r. *no babling*.

Errata's in Proſe.

COntents to the Firſt Book relating to p. 88. for *in vitam* r. *invitam non deſerturum*, Lib. 1. p. 88. l. 8. add *invitam* before *deſerturum*, p. 90. l. 42. for *invitum* r. *invitam deſerturum*, p. 1. l. 11. for *or any Subject* r. *on any Subject*, p. 4. l. 28. for *Harecloth* r. *Hayrcloth*, p. 17. l. 36. for *women were divorced* r. *women did divorce*, p. 23. l. 21. for *Affinity* r. *Conſanguinity*, p. 43. l. 11. for *Canon Law* r. *Common Law*, p. 93. l. 27. for *Common Law* r. *Canon Law*, p. 106. l. 31. for *pitty relieve him* r. *pitty to relieve him*, p. 110. l. 40. for *invitum fore Matrimonium* r. *Irritum fore Matrimonium*, p. 132. l. 36. add *and ſhall cleave to his wife*, p. 180. l. 11. for *eſtabliſhed* r. *aboliſhed*, p. 180. l. 42. for *Chancellors of State* r. *Councellors of Statt*, p. 210. l. 20. for *Sacrament* r. *Sacrifice*, p. 215. l. 28. for *Tyrant* r. *Pyrat*, p. 282. l. 23. for *there were Judges* r. *and Judges*, p. 120. l. 1. leave out *no*, l. for *Secreta Fori* r. *Secreta Thori*, p. 121. l. 25. for *falſe* r. *and the falſe*, p. 121. l. 43. for *take off Exequenda officia Matrimonialia* r. *talk of Exequnda officia Matrimonialia*, p. 257. l. 30. for *thinks* r. *think*, l. 27. for *that binds* r. *binds*, p. 265. l. 17. for *Obligatio libelli* r. *Oblatio libelli*, Lib. 3. Preface p. 10. l. 1. for *Algine* r. *Algive*. In the Contents relating to p. 160. for *Succeſſor or Male* r. *Succeſſor Male*, leaving out *(or)* p. 2. l. 16. for *ever that be* r. *Over that be*, p. 12. l. 10. for *wages* r. *ways*, p. 188. l. 25. for *Baſiel* r. *Baliol*. In the Index ſee Bail, in line 36. for *Canon-Law* r. *Common-Law*.